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# federal register

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Thursday  
November 15, 1990

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Thursday  
November 15, 1990



# Federal Register

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For information on briefings in Washington, DC, and Atlanta, GA, see announcement on the inside cover of this issue.





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## THE FEDERAL REGISTER

### WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

- WHEN:** November 27, at 9:00 a.m.  
**WHERE:** Office of the Federal Register,  
 First Floor Conference Room,  
 1100 L Street NW., Washington, DC.
- RESERVATIONS:** 202-523-5240

### ATLANTA, GA

- WHEN:** December 12, at 9:00 a.m.  
**WHERE:** Summit Building,  
 401 W. Peachtree Street,  
 19th Floor Conference Room,  
 Atlanta, GA.
- RESERVATIONS:** 1-800-347-1997.



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## Presidential Documents

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Proclamation 6226 of November 13, 1990

The President

American Education Week, 1990

By the President of the United States of America

### A Proclamation

While a sound education is a great and lasting treasure in its own right, it is also vital to the advancement of individuals and nations. Through their educational experiences, young people develop the knowledge and skills needed to become innovative, productive citizens. They also gain an understanding of our Nation's history and an appreciation for our rights and responsibilities as members of a free and democratic society. Thus, if the United States is to remain a free, strong, and prosperous country, one that is competitive in the rapidly changing global marketplace, our educational system must be marked by excellence.

Our success in strengthening America's educational system may be measured by our progress toward the six national education goals established last year following my Education Summit with the Nation's Governors. First, by the year 2000, all American children must start school ready to learn. High school graduation rates must increase to 90 percent. American students must demonstrate competence in five critical subjects with their progress assessed in grades 4, 8, and 12, and they must rank first in the world in science and mathematics. Every American adult must be literate and possess the skills—including the technical skills—necessary to compete in the global economy. Finally, every school in the United States must be safe, disciplined, and drug-free. These goals form a binding standard of excellence for our Nation's schools, a standard that both animates and guides our ongoing efforts to revitalize American education.

In July, I joined with the Nation's Governors in establishing the National Education Goals Panel, which will measure and report progress toward these crucial objectives. Achieving our national education goals is not, however, a job for panel members and government officials alone. Ensuring a high-quality education for every American will depend on the personal commitment and sustained cooperation of all Americans—parents, teachers, students, local school administrators, business leaders, and elected officials, as well as the general public.

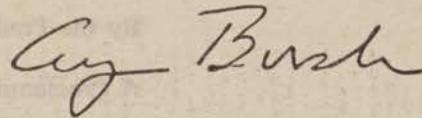
Because education is a lifelong process of learning, growth, and discovery, our ability to achieve excellence in the Nation's schools begins at home. What goes on in the classroom is only part of a child's educational experience, and parents have primary responsibility for what—and how—their children learn. Parents can contribute substantially to the quality of our educational system by taking active interest in their youngsters' homework and academic progress; by participating in parent-teacher organizations; and by insisting on fair and effective local school boards. Government can encourage parental involvement by expanding choice in education.

At home, in the classroom, in public office, and in the community at large, all of us can and must work toward achieving our national education goals. Each of us is accountable for the quality of American education, and each of us has a vital stake in its future. This week let us reaffirm our determination to make excellence, once again and always, the hallmark of American education.



NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week beginning November 11, 1990, as American Education Week. I urge all Americans to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of November, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.



[FR Doc. 90-27071

Filed 11-13-90; 2:07 pm]

Billing code 3195-01-M



## Presidential Documents

**Proclamation 6227 of November 13, 1990**

### **Geography Awareness Week, 1990**

**By the President of the United States of America**

#### **A Proclamation**

From the vast, frozen tundra of the Arctic to the exotic reaches of South American rain forests, the world in which we live is a beautiful and fascinating place. As varied as the climates, terrain, and natural resources found on our planet, however, are the peoples who inhabit it.

Americans who lack fundamental knowledge of the world's peoples and their surroundings cannot fully appreciate or enjoy Earth's diversity and splendor. On a larger scale, the lack of even elementary geographic knowledge among many Americans places our entire Nation at a disadvantage in matters of foreign policy and international commerce.

Geography has been a pivotal factor in the social, economic, and political development of virtually every country in the world. Thus the study of geography is not only exciting but also essential to understanding history and to participating successfully in today's global community. We Americans cannot formulate or maintain effective foreign policies, trade strategies, and business practices if the physical characteristics and cultural and political boundaries of the world are unfamiliar to us. We cannot respond effectively to dramatic changes around the globe if we do not fully comprehend the location and significance of such events. Moreover, our ability to promote international understanding and cooperation depends, in large part, on our ability to understand the languages, customs, and beliefs of other peoples, as well as the physical circumstances in which they live.

Despite the importance of public awareness of world geography, statistics indicate that many Americans lack basic knowledge in this field. For example, a survey sponsored by the Federal Government found that many of the Nation's 12th graders do not know that the Mississippi River flows into the Gulf of Mexico. The Department of Education reports that one-third of all adults in the United States cannot name any of the countries that belong to the North Atlantic Treaty Organization, and a National Governors' Association report approximately two years ago indicated that one in seven adults could not locate the United States on a globe. Although such findings underscore the dire need to improve general knowledge of the subject, geography as a distinct discipline has been disappearing from academic curricula around the country.

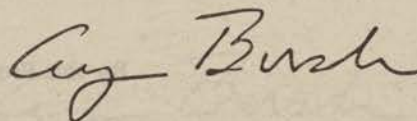
Fortunately, however, the Administration and the Nation's Governors are working to revitalize America's educational system through efforts that include renewed emphasis on the basics. By raising our expectations and reaffirming the value of learning—including the study and mastery of elementary geography—we can better equip young Americans for the challenges and opportunities of the future.

To focus attention on the importance of the study and mastery of geography, the Congress, by Senate Joint Resolution 323, has designated the week of November 11 through November 17, 1990, as "Geography Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this week.



NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of November 11 through November 17, 1990, as Geography Awareness Week. I urge all Americans to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of November, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.



[FR Doc. 90-27072

Filed 11-13-90; 2:08 pm]

Billing code 3195-01-M



## Presidential Documents

Presidential Determination No. 91-6 of October 30, 1990

### Determination Under Section 405 of Public Law 101-246

#### Memorandum for the Secretary of State

Pursuant to Section 405 of Public Law 101-246, I hereby determine that the United Nations

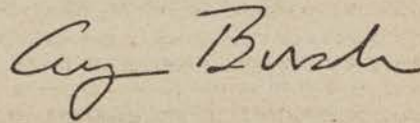
a. has continued implementation of consensus decision-making procedures on budgetary matters which assure that sufficient attention is paid to the views of the United States and other member states who are major financial contributors to the assessed budget;

b. is making further progress toward the elimination of the abuse of secondment; and

c. is implementing the 15 percent reduction in the staff of the United Nations Secretariat and that such reduction is being equitably applied among the different nationalities on such staff.

You are authorized and directed to report this determination to the Congress and to publish it in the **Federal Register**.

THE WHITE HOUSE,  
Washington, October 30, 1990.



[FR Doc. 90-27143

Filed 11-13-90; 4:16 pm]

Billing code 3195-01-M

**Executive Order**

Whereas the President is authorized by the Constitution to exercise the powers of the Executive branch of the Government; and

Whereas the President is authorized by the Constitution to exercise the powers of the Executive branch of the Government;

Now, therefore, I, the President, do hereby order that

Section 402 of Public Law 101-224

be and it is hereby ordered that

Section 402 of Public Law 101-224 be and it is hereby ordered that

United States

and the continued implementation of the provisions of the Executive Order on the subject of the United States and other member states who are major financial contributors to the United States

is making further progress toward the elimination of the United States

and the continued implementation of the provisions of the Executive Order on the subject of the United States and other member states who are major financial contributors to the United States

and the continued implementation of the provisions of the Executive Order on the subject of the United States and other member states who are major financial contributors to the United States

*John F. Kennedy*

THE WHITE HOUSE  
Washington, D.C. 20503

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## Presidential Documents

Presidential Determination No. 91-7 of October 30, 1990

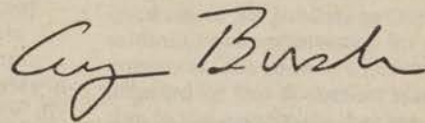
### Determination Under Section 405 of Public Law 101-246

#### Memorandum for the Secretary of State

Pursuant to Section 405 of Public Law 101-246, I hereby determine that the International Civil Aviation Organization, the International Labor Organization, the United Nations Industrial Development Organization, the World Health Organization, and the World Meteorological Organization have continued implementation of decision-making procedures on budgetary matters which assure that sufficient attention is paid to the views of the United States and other member states who are major financial contributors to such budgets.

You are authorized and directed to report this determination to the Congress and to publish it in the **Federal Register**.

THE WHITE HOUSE,  
Washington, October 30, 1990.



[FR Doc. 90-27144

Filed 11-13-90; 4:17 pm]

Billing code 3195-01-M

Presidential Documents

Presidential Proclamation No. 3171 of October 20, 1962

Declaration Under Section 955 of Public Law 101-228

Memorandum for the Secretary of State

Transmit to Section 955 of Public Law 101-228, I hereby declare that the International Civil Aviation Organization, the International Labour Organization, the United Nations Industrial Development Organization, the World Health Organization, and the World Meteorological Organization have entered into an agreement to develop a common system of accounting and implementation of decision-making procedures on a regular basis which will be submitted to the views of the United States and other member states who are major financial contributors to all bodies.

This act authorized and directed to report this declaration to the Congress and to publish it in the Federal Register.



THE WHITE HOUSE  
Washington, October 20, 1962



# Rules and Regulations

Federal Register

Vol. 55, No. 221

Thursday, November 15, 1990

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 90-212]

#### 7 CFR Part 301

#### Mexican Fruit Fly; Deletion of Regulated Areas

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the Mexican fruit fly regulations by removing a portion of Los Angeles County near Compton, California, from the list of areas regulated because of the Mexican fruit fly, and by removing California from the list of States quarantined because of the Mexican fruit fly. We have determined that the Mexican fruit fly has been eradicated from California, and that restrictions are no longer needed to prevent the spread of the Mexican fruit fly into noninfested areas of the United States. This action relieves unnecessary restrictions on the interstate movement of regulated articles from the previously regulated area.

**DATES:** Interim rule effective November 9, 1990. Consideration will be given only to comments received on or before January 14, 1991.

**ADDRESSES:** To help ensure that your comments are considered, send an original and three copies of written comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-212. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington,

DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), is an extremely destructive pest of certain fruits and vegetables. The Mexican fruit fly can cause serious economic losses. The short life cycle of this pest allows the rapid development of serious outbreaks.

The Mexican fruit fly regulations contained in 7 CFR 301.64 *et seq.* (referred to below as the regulations) impose restrictions on the interstate movement of regulated articles from regulated areas in quarantined States in order to prevent the artificial spread of the Mexican fruit fly to noninfested areas. Regulated articles include citrus fruit, avocados, apples, peaches, pears, lemons, limes, plums, prunes, and pomegranates.

In a document effective June 26, 1990, and published in the **Federal Register** on July 2, 1990, (55 FR 27180-27182, Docket Number 90-085), we added California to the list of States quarantined because of the Mexican fruit fly and designated as regulated areas in California a portion of Los Angeles County, near Compton, and a portion of San Diego County, near El Cajon.

In a document effective October 18, 1990, and published in the **Federal Register** on October 23, 1990 (55 FR 42698-42699, Docket Number 90-207), we removed the portion of San Diego County near El Cajon from the list of regulated areas.

Based on insect trapping surveys by inspectors of California State and county agencies and by inspectors of Plant Protection and Quarantine, a unit within the Animal and Plant Health Inspection Service, United States Department of Agriculture, we have determined that the Mexican fruit fly has now been eradicated from the portion of Los Angeles County near Compton, California. The last finding of the Mexican fruit fly thought to be

associated with the infestation in this area was made on May 8, 1990.

Since then, no evidenced of Mexican fruit fly infestations has been found in this area. We have determined that the Mexican fruit fly no longer exists in this area, and we are therefore, removing it from the list of areas in § 301.64-3(c) regulated because of the Mexican fruit fly. Since this area was the only remaining area in California regulated because of the Mexican fruit fly, we have also determined that the Mexican fruit fly no longer exists in California. We are therefore removing California from the list in § 301.64-3 of States quarantined because of the Mexican fruit fly.

##### Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this rule without prior opportunity for public comment. The area in California affected by this document was regulated due to the possibility that the Mexican fruit fly could be spread to noninfested areas of the United States. Since this situation no longer exists, and the continued regulated status of this area would impose unnecessary restrictions on the public, we are taking immediate action to remove the restrictions.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

##### Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than \$100 million; will not cause a major increase in costs or prices for consumers,



individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This regulation removes restrictions on the interstate movement of regulated articles from a portion of Los Angeles County near Compton, California. Within this area there are approximately 135 entities that could be affected, including 30 fruit/produce markets, 100 nurseries, and 5 community gardens. These entities comprise less than 1 percent of the total number of similar enterprises operating in the State of California.

The effect of this rule on these entities should be insignificant since most of these small entities handle regulated articles primarily for local intrastate movement, not interstate movement, and the distribution of these articles was not affected by the regulatory provisions we are removing.

Many of these entities also handle other items in addition to the previously regulated articles so that the effect, if any, of this regulation on these entities is minimal. Further, the conditions in the Mexican fruit fly regulations and treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations, allowed interstate movement of most articles without significant added costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V).

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Mexican fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

#### PART 301 DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

**Authority:** 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

#### § 301.64 [Amended]

2. In § 301.64, paragraph (a), the phrase "the States of California and Texas" is changed to read "the State of Texas".

#### § 301.64-3 [Amended]

3. Section 301.64-3, paragraph (c) is amended by removing the entry for "California" and the description of the regulated area for Los Angeles County, California.

Done in Washington, DC, this 9th day of November 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-26934 Filed 11-14-90; 8:45 am]

BILLING CODE 3410-34-M

#### 7 CFR Part 301

[Docket No. 90-211]

#### Mediterranean Fruit Fly; Removal of Regulations

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule.

**SUMMARY:** We are removing the Mediterranean fruit fly (Medfly) regulations that designated a portion of Los Angeles County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from the quarantined area. The regulations were established to prevent the spread of the Medfly into noninfested areas of the United States. We have determined that the Medfly has been eradicated from Los Angeles County, California, which was the only remaining area in California regulated because of the Medfly. Therefore, the Medfly regulations are no longer necessary. This action removes restrictions on the interstate movement of regulated articles from California.

**DATES:** Interim rule effective November 9, 1990. Consideration will be given only to comments received on or before January 14, 1991.

**ADDRESSES:** To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-211. Comments received may be inspected at USDA, Room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

#### FOR FURTHER INFORMATION CONTACT:

Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables, especially citrus fruits. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

We established the Medfly regulations and quarantined an area in Los Angeles County, California (7 CFR 301.78 *et seq.*, referred to below as the regulations), in a document effective August 23, 1989, and published in the *Federal Register* on August 29, 1989 (54 FR 35629-35635, Docket Number 89-146). We have published a series of interim rules amending these regulations by adding or removing certain portions of Los Angeles, Orange, Riverside, San Bernardino, and Santa Clara Counties, California, from the list of quarantined areas. Amendments affecting California were made effective on September 14, October 11, November 17, and December 7, 1989; and on January 3, January 25, February 16, March 9, May 9, June 1, August 3, September 6, September 14, September 21, October 12, and October 19, 1990 (54 FR 38643-38645, Docket Number 89-169; 54 FR 42478-42480, Docket Number 89-182; 54 FR 48571-48572, Docket Number 89-202; 54 FR 51189-51191, Docket Number 89-206; 55 FR 712-715, Docket Number 89-



212; 55 FR 3037-3039, Docket Number 89-227; 55 FR 6353-6355, Docket Number 90-014; 55 FR 9719-9721, Docket Number 90-031; 55 FR 19241-19243, Docket Number 90-050; 55 FR 22320-22323, Docket Number 90-081; 55 FR 32236-32238, Docket Number 90-151; 55 FR 37697-37699, Docket Number 90-175; 55 FR 38529-38530, Docket Number 90-179; 55 FR 39261-39162, Docket Number 90-182; 55 FR 41981-41983, Docket Number 90-199; 55 FR 42953-42954, Docket Number 90-205).

The regulations imposed restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the Medfly to noninfested areas of the United States. The regulations also designated soil, and a large number of fruits, nuts, vegetables, and berries, as regulated articles.

Based on insect trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS), we have determined that the Medfly has been eradicated from the quarantined areas in California in Los Angeles County, near Echo Park, Glassel Park and Rosemead. The last finding of the Medfly thought to be associated with the infestation in these areas was made on June 27, 1990, in the Echo Park area, and on July 10, 1990, in the Glassel Park and Rosemead areas.

Since then, no evidence of Medfly infestations has been found in these areas. We have determined that the Medfly infestation no longer exists in Los Angeles County, California, and we are removing it from the list of areas in § 301.78-3(c) quarantined because of the Medfly. Since portions of Los Angeles County were the only remaining areas in California regulated because of the Medfly, we have now determined that the Medfly no longer exists in California. We are therefore removing the Medfly regulations.

#### Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. The areas in California affected by this document were quarantined due to the possibility that the Medfly could spread to noninfested areas of the United States. Since this situation no longer exists, and the continued quarantined status of these areas would impose unnecessary regulatory restrictions on

the public, we have taken immediate action to remove these restrictions.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments received within 60 days of publication of this interim rule in the *Federal Register*. After the comment period closes, we will publish another document in the *Federal Register*, including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

#### Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than \$100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This regulation affects the interstate movement of regulated articles from portions of Los Angeles County in California. Within the regulated areas being removed there are approximately 2,203 entities that could be affected, including 125 nurseries, 1,188 fruit/produce vendors, 5 community gardens, 5 swap meets, 62 commercial growers, 6 farmers market, 318 yard maintenance services, 462 mobile vendors, and 22 miscellaneous (i.e., packing, processing, and dehydrator sites and small backyard sellers).

The effect of this rule on these entities should be insignificant since most of these small entities handle regulated articles primarily for local intrastate movement, not interstate movement, and the distribution of these articles was not affected by the regulatory provisions we are removing.

Many of these entities also handle other items in addition to the previously

regulated articles so that the effect, if any, on these entities is minimal. Further, the conditions in the Medfly regulations and treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations, allowed interstate movement of most articles without significant added costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that his action will not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

The regulations in this subpart contain no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V).

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Mediterranean fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended to read as follows:

#### PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

§§ 301.78 through 301.78-10 [Removed]

2. "Subpart—Mediterranean Fruit Fly" (7 CFR 301.78 through 301.78-10) is removed.

Done in Washington, DC, this 9th day of November 1990.

Robert Melland,

Acting Administrator Animal and Plant Health Inspection Service.

[FR Doc. 90-26935 Filed 11-14-90; 8:45 am]

BILLING CODE 3410-34-M



**Foreign Agricultural Service****7 CFR PART 1530****Sugar To Be Re-exported in Refined Form; Sugar To Be Re-exported in Sugar Containing Products; Sugar for Production of Polyhydric Alcohol**

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Interim rule; extension of comment period.

**SUMMARY:** Because of requests by the public, this Notice announces a 30-day extension of time, until December 13, 1990, for comments on the interim rule published in the *Federal Register* on October 12, 1990 (55 FR 41487). The interim rule amended the regulations governing three programs—"Sugar to be Re-exported in Refined Form" (7 CFR 1530.100 et seq.), "Sugar To Be Re-exported in Sugar Containing Products" (7 CFR 1530.200 et seq.), and "Sugar for Production of Polyhydric Alcohol" (7 CFR 1530.300 et seq.)—administered by the Foreign Agricultural Service.

**DATES:** All comments on the interim rule must be submitted on or before December 13, 1990 in order to be assured of consideration.

**ADDRESSES:** Comments should be mailed or delivered to the Team Leader, Import Quota Programs, Foreign Agricultural Service, room 6095, South Building, U.S. Department of Agriculture, Washington, DC 20250. Comments received may also be inspected at room 6095 between 9 a.m. and 4:30 p.m., Monday through Friday except holidays.

**FOR FURTHER INFORMATION CONTACT:** Cleveland Marsh (Team Leader, Import Quota Programs), 202-447-2916 or Dale McNiel (Attorney), 202-447-3780.

**SUPPLEMENTARY INFORMATION:** Presidential Proclamation No. 6179 of September 13, 1990, 55 FR 38293, converted the U.S. sugar import quota into a tariff-rate quota, effective October 1, 1990. This Proclamation provided for raw cane sugar described in subheading 1701.11.02 of the Harmonized Tariff Schedule of the United States (HTS) to be imported subject to the lower duty rates (or duty free) of the tariff-rate quota, and exempt from the quota limitations otherwise applicable to sugars imported at such lower duty rates, provided that such sugar is used only for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, or is re-exported in refined form or in sugar containing products and further provided that duties paid at the

higher duty rates are not refunded, as drawback, on the basis, or as a result, of the exportation of such polyhydric alcohol, refined sugar or sugar containing products. Accordingly, the Proclamation enabled the Department of Agriculture to renew three programs—"Sugar for Production of Polyhydric Alcohol" (7 CFR 1530.300 et seq.), "Sugar to be Re-exported in Refined Form" (7 CFR 6.100 et seq.), and "Sugar To Be Re-exported in Sugar Containing Products" (7 CFR 1530.200 et seq.)—that were in effect under the former absolute import quota.

The interim rule published on October 12, 1990 amended the regulations governing these programs primarily in order to conform the regulations to the provisions of the HTS, as modified by Proclamation No. 6179. In addition to the requirements previously applicable, license holders are required to certify whether or not any drawback refunds of higher rate duties under the tariff-rate quota have or will be claimed on the basis, or as a result, of the exportation of polyhydric alcohol, refined sugar, or sugar containing products produced or exported pursuant to these programs. In addition, the interim rule made numerous minor amendments to update or clarify former provisions and transferred the regulations in 7 CFR part 6, "Subpart—Importation of Sugar Free From Quota" to 7 CFR part 1530—"Sugar Import Licensing" in order to consolidate in one part of the CFR all of the regulations governing the program referred to above.

**Notice**

Notice is hereby given that the period of time for submitting comments on the interim rule published on October 12, 1990 (55 FR 41487) is extended to December 13, 1990.

R.E. Anderson, Jr.,

Administrator, Foreign Agricultural Service.

[FR Doc. 90-27021 Filed 11-13-90; 12:28 pm]

BILLING CODE 3410-10-M

**NUCLEAR REGULATORY COMMISSION****10 CFR Parts 0 and 1**

RIN 3150-AD74

**Statement of Organization and General Information; Minor Amendments**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission is revising its statement of organization and general information to

reflect the establishment of the Office of Inspector General (OIG) by formally removing references to the Office of Inspector and Auditor (OIA) from its regulations. The authority and responsibility for OIA functions have been transferred to the OIG. This final rule is necessary to inform the public of organizational changes within the NRC.

**EFFECTIVE DATE:** The rule will become effective upon date of publication.

**FOR FURTHER INFORMATION CONTACT:** Donnie H. Grimsley, Director, Division of Freedom of Information and Publications Services, Office of Administration, Washington, DC 20555, Telephone: 301-492-7211.

**SUPPLEMENTARY INFORMATION:** On April 17, 1989, the Office of the Inspector General was established as a result of Public Law 100-504, "The Inspector General Amendments Act of 1988." The Nuclear Regulatory Commission (NRC) formally announced the establishment of the OIG in a final rule published in the *Federal Register* on December 28, 1989 (54 FR 53312).

The amendments presented in this final rule are necessary to formally remove references to the Office of Inspector and Auditor (OIA) from 10 CFR chapter I. The authority and responsibility for OIA functions have been transferred to the OIG.

Because these are amendments dealing with agency practice and procedure, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). The amendments are effective upon publication in the *Federal Register*. Good cause exists to dispense with the usual 30-day delay in the effective date, because these amendments are of a minor and administrative nature, dealing with the agency's reorganization.

**Environmental Impact: Categorical Exclusion**

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

**Paperwork Reduction Act Statement**

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150-0025.



**List of Subjects****10 CFR Part 0**

Conflict of interest, Penalty.

**10 CFR Part 1**

Organization and functions (Government Agencies).

For the reason set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 0 and 1.

**PART 0—CONDUCT OF EMPLOYEES**

1. The authority citation for part 0 continues to read in part as follows:

**Authority:** Section 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841) \* \* \*.

**§ 0.735-3 [Amended]**

2. In § 0.735-3, paragraphs (d)(2) and (g), remove the words "Office of Inspector and Auditor," and add in their place the words "Office of Inspector General."

**PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION**

3. The authority citation for part 1 continues to read in part as follows:

**Authority:** Section 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841) \* \* \*.

**§ 1.21 [Removed]**

4. Section 1.21 is removed.

Dated at Rockville, Maryland, this 2nd day of November 1990.

For the Nuclear Regulatory Commission.

James H. Sniezek,

Acting Executive Director for Operations.

[FR Doc. 90-26921 Filed 11-14-90; 8:45 am]

BILLING CODE 7590-01-M

**FEDERAL RESERVE SYSTEM****12 CFR Part 225**

[Regulation Y; Docket No. R-0699]

**Exemption Permitting Banks To Offer Reduced-Rate Credit Cards to Customers of Their Affiliates**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** Section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971, 1972(1)) ("section 106") generally prohibits banks from

offering reduced consideration for credit or other services on the condition that the customer also obtain some additional service from the bank or a holding company affiliate of the bank. This exemption would permit banks to offer a price reduction on credit cards issued to their customers if the customer also obtains a traditional banking product from any of the credit card bank's affiliates.

**EFFECTIVE DATE:** December 18, 1990.

**FOR FURTHER INFORMATION CONTACT:** Robert deV. Frierson, Senior Attorney (202/452-3711) or Mark J. Tenhundfeld, Attorney (202/452-3612), Legal Division; or Anthony Cymak, Economist (202/452-2917), Division of Research and Statistics, Board of Governors. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson (202/452-3544).

**SUPPLEMENTARY INFORMATION:****Background**

Section 106 generally prohibits banks from offering reduced consideration for credit or other services if that reduction is conditioned on a requirement that the customer also obtain some additional service from the bank or a holding company affiliate of the bank.<sup>1</sup> However, section 106 provides that the Board may, by regulation or order, "permit such exceptions . . . as it considers will not be contrary to the purposes" of section 106.

Pursuant to this exemptive authority, the Board recently approved separate requests by Norwest Corporation, Minneapolis, Minnesota ("Norwest"), and NCNB Corporation, Charlotte, North Carolina ("NCNB"), to consolidate their credit card operations into card-issuing banks and to offer reduced-rate credit cards to customers of their affiliate banks.<sup>2</sup>

Norwest and NCNB proposed to vary the consideration (including interest rates and fees) charged on a credit card issued by one of their banks if the cardholder also obtained a "traditional banking product" (defined by section 106 as a loan, discount, deposit or trust service) from any of their other subsidiary banks.<sup>3</sup> Regardless of the

combination of banking services offered, the proposed variation in consideration would occur on the credit card (the tying product) and was conditioned upon the customer also obtaining traditional banking products (the tied products) from a subsidiary bank of the card-issuing bank's parent holding company. In addition, all products offered under this arrangement were also available to customers for separate purchase.

The Norwest and NCNB proposals were prohibited under the literal terms of section 106. Under its provisions, a bank may not offer reduced-rate credit on the condition that a customer also obtain some additional service from an affiliate of that bank.<sup>4</sup> Accordingly, without an exemption under section 106 from the Board, a multi-bank holding company like Norwest and NCNB would be prohibited from offering a reduced-rate credit card at one of its banks on the condition that a customer also obtain a traditional banking product from one of its other affiliated banks.

In order to grant an exemption, section 106 requires the Board to find that the reduced-rate credit card arrangement would not be contrary to the purposes of the section. The legislative history indicates that the purpose of the section was to address an underlying Congressional concern regarding fair competition and that its prohibitions were "intended to provide specific statutory assurance that the use of the economic power of a bank will not lead to a lessening of competition or unfair competitive practices."<sup>5</sup>

This legislative history also indicates that the Board should exercise its exemptive authority selectively. The Senate banking committee's report states that "the committee expects that by such regulation or order the Board will continue to allow appropriate traditional banking practices."<sup>6</sup> The

<sup>4</sup> Section 106 permits a bank to reduce consideration for credit or other services if the customer obtains some other traditional banking service from that bank. This exception does not apply, however, where the credit from one bank is conditioned on obtaining an additional product from an affiliate. Thus, while section 106 permits a bank to require a customer to obtain its own traditional banking services as a condition for reduced-rate credit, it does not permit a bank to impose the same requirements for a traditional banking service offered by an affiliate of the bank.

<sup>5</sup> S. Rep. No. 1084, 91st Cong., 2d Sess. 16 (1970) ("Senate Report"). The Senate banking committee's report explains: "The purpose of [section 106] is to prohibit anticompetitive practices which require bank customers to accept or provide some other service or product or refrain from dealing with other parties in order to obtain the bank product or service they desire." Senate Report at 17.

<sup>6</sup> Senate Report at 17.

<sup>1</sup> Such arrangements constitute tie-ins and may result in a customer being forced or induced to purchase a product that the customer does not want (the "tied product") in order to obtain a product that the customer desires (the "tying product").

<sup>2</sup> Norwest Corporation and NCNB Corporation, 76 Federal Reserve Bulletin 702 (1990).

<sup>3</sup> For example, a depositor maintaining a minimum deposit balance at any of their affiliate banks might be eligible for a credit card with no membership fee.



Supplementary Views of Senator Brooke filed with the Senate Report note that "adequate discretion is vested in the Federal Reserve Board to provide exceptions where such are founded on sound economic analysis."<sup>7</sup>

In determining whether the proposed exemption would be inconsistent with section 106's purpose and legislative history, the Board has considered it appropriate to analyze the competitiveness of the relevant credit card market. In the Board's view, unless it would be likely that the seller's market power in the credit card market for the tying product is high enough to force a consumer to also purchase on uncompetitive terms a traditional banking service in the tied product market, a reduced-rate credit card arrangement would not appear to produce anticompetitive effects.

The Board has found the relevant market for credit cards to be national in scope<sup>8</sup> and, with nearly 5,000 card-issuers, relatively unconcentrated. In the case of Norwest and NCNB, their small market shares and the presence of many other competitors providing credit cards in the tying product market indicated that they could not exercise sufficient market power to impair competition in the tied product market for traditional banking services.<sup>9</sup> The Board also noted that both companies would continue to offer credit cards and traditional banking services separately,<sup>10</sup> and, given the competitive nature of the credit card market, these separately available products would be required to be offered at competitive prices.

Under these circumstances, the Board concluded that the Norwest and NCNB proposals were not contrary to the purpose of section 106, and that granting the exemptions was consistent with the legislative history of the Board's authority to permit exemptions for traditional banking services on the basis of economic analysis. Approval was conditioned, however, on the Board's right to terminate the credit card

proposals if conditions developed to indicate that the arrangement was resulting in anticompetitive practices that were inconsistent with the purpose of section 106.

In light of section 106's purpose of preventing unfair competitive practices, and the relatively unconcentrated nature of the national credit card market, the Board also considered it appropriate to permit reduced-rate credit card arrangements by bank holding companies, without the need for acting on individual requests. Accordingly, the Board proposed an amendment to Regulation Y authorizing bank holding companies generally to offer reduced rates on credit cards for customers of their affiliated depository institutions under the same circumstances discussed in the Norwest and NCNB approvals.<sup>11</sup> During the regulatory comment period, the Board received 49 written comments, with 40 in favor of and 9 opposed to the proposal.

#### Discussion

Commenters opposing the proposed amendment generally argued that reduced-rate credit card arrangements would permit larger bank holding companies to compete unfairly against smaller holding companies for credit card customers. The Board believes, however, that the proposed exemption addresses the potential for unfair competitive practices in several respects. As the Board has previously noted, concerns regarding reduced-rate credit card proposals from an antitrust perspective are substantially reduced when the buyer is free to obtain the tying or tied product separately, thus assuring the availability of these products to customers not wishing to obtain all the products offered in the arrangement. Moreover, the competitiveness of the credit card market would require that the separately available credit cards be offered at competitive prices. In any event, the Board has reserved the right to terminate any reduced-rate credit card arrangement offered under the proposed exemption that results in anticompetitive practices.

One commenter disputed the conclusions to be drawn from the data on credit card receivables and alleged that the credit card industry is highly concentrated. As previously discussed in the Norwest and NCNB Order, however, these data confirm the relatively unconcentrated nature of the credit card market. The approximately

5,000 card-issuers in the market for credit card services substantiate the existence of numerous competitors in the present market and the absence of significant barriers for entry by prospective competitors. The largest single issuer has less than 20 percent of all credit card outstandings and cannot be characterized as being dominant enough to exercise significant market power through its market share. In addition, the credit card market is also national in geographic scope. This national scope implies that, regardless of local banking market structure, customers can choose from many competitive alternatives for basic credit card services, thus making it unlikely that any one competitor would be able to exert monopolistic power in any local market for credit cards. And, as noted above, the Board can terminate any reduced-rate credit card program if the facts demonstrate that competitors offering the program can exert sufficient power in this market to result in anticompetitive practices.

Seventeen of the commenters in favor of the proposal have requested that the Board expand the proposal to include one or both of the following: (i) A variation in consideration for any traditional banking product; and (ii) traditional banking products offered by nonbanking subsidiaries in addition to depository subsidiaries of the card-issuing bank's parent holding company.

As discussed above, section 106 permits the Board to approve only exemptions that are not contrary to the purpose of preventing anticompetitive practices. In the case of the reduced-rate credit cards, an analysis of the current credit card market indicates that no seller's market power in this tying product market is high enough to force a consumer to also purchase on uncompetitive terms a traditional banking product in the tied product market.

In the Board's view, analyses of the market for other tying banking products would be appropriate before the Board expanded the scope of the proposed amendment. The Board has found that the competitive characteristics of the credit card market are an appropriate consideration in determining whether an exemption for credit cards would not be contrary to the purposes of section 106 for purposes of exercising its exemptive authority. Accordingly, the Board believes that market analyses for the other proposed tying products would be relevant to the Board's determination of whether those tying products would result in anticompetitive practices and thus would be inconsistent with the

<sup>7</sup> Senate Report at 46.

<sup>8</sup> *First Chicago Corporation*, 73 Federal Reserve Bulletin 600 (1987); *RepublicBank Corporation*, 73 Federal Reserve Bulletin 510 (1987).

<sup>9</sup> According to market data as of December 31, 1988, Norwest accounted for less than 1 percent of total credit card balances outstanding and NCNB held only 1 percent among the top 100 card-issuers. Moreover, the top 100 card-issuing institutions accounted for approximately 80 percent of total industry outstandings and Citicorp, the largest single issuer, accounted for 18 percent of all credit card balances outstanding.

<sup>10</sup> Under antitrust precedent, anticompetitive concerns are substantially reduced where the buyer is free to take either product by itself even though the seller may also offer the two items as a unit at a single price. *Northern Pacific Ry. Co. v. United States*, 356 U.S. 1, 6, n.4 (1958).

<sup>11</sup> 55 FR 26453 (1990).



purposes of section 106. In this regard, staff reviews market characteristics of banking products may be concluded in the future.<sup>12</sup>

The Board believes it appropriate, however, to expand the proposed exemption to include traditional banking products offered by both depository and nonbanking subsidiaries of the card-issuing bank's parent holding company. Multi-bank holding companies today offer a variety of traditional banking products through nonbanking subsidiaries. In addition, the Board notes that subsequent Congressional action in other contexts regarding prohibitions similar to section 106 tends to support the inclusion of all subsidiaries within the exemption. For example, Federal thrifts are permitted to offer arrangements with traditional banking services obtained from any of the thrift's affiliates.<sup>13</sup> In the Competitive Equality Banking Act of 1987 ("CEBA"), which applied the prohibitions of section 106 to nonbank banks, Congress indicated that these restrictions "would not be violated by tying one of these traditional banking services offered by a grandfathered nonbank of another traditional banking service offered by an affiliate."<sup>14</sup> While this excerpt does not accurately reflect the literal terms of section 106, it lends support for expanding the proposed exemption to include traditional banking products offered by any of the card-issuing bank's affiliates, given the lack of economic evidence of anticompetitive effects.<sup>15</sup>

#### Analysis of the final rule

The final rule would permit a bank owned by a bank holding company to vary the consideration (including interest rates and fees) charged on extensions of credit made pursuant to a credit card offered by the bank (including a credit card bank) on the basis of the condition or requirement

that a customer also obtain traditional banking products from another subsidiary of the card-issuing bank's parent holding company. However, both the credit card and the traditional banking products offered in the arrangement must be separately available for purchase by the customer. Moreover, the Board may terminate any exemption if facts develop to indicate that the arrangement is resulting in anticompetitive practices.

#### Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Board of Governors of the Federal Reserve System certifies that this final rule will not have a significant economic impact on a substantial number of small entities that will be subject to the regulation.

#### List of Subjects in 12 CFR Part 225

Administrative practices and procedure, Appraisals, Banks, Banking, Capital adequacy, Federal Reserve System, Holding companies, Reporting and record keeping requirements, Securities, State member banks.

For the reasons set forth in this document, the Board amends 12 CFR part 225 as follows:

#### PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 is revised to read as follows:

**Authority:** 12 U.S.C. 1817(j)(13), 1818, 1831i, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3907, 3909, 3310, and 3331-3351.

2. In § 225.4, paragraph (d) is redesignated as paragraph (d)(1), the heading to newly redesignated paragraph (d)(1), is revised, and new paragraph (d)(2) is added to read as follows:

#### § 225.4 Corporate practices.

(d)(1) *Limitation on tie-in arrangements.*

(2) *Exemption for credit cards.* A bank (including a credit card bank) owned by a bank holding company may vary the consideration (including interest rates and fees) charged on extensions of credit made pursuant to a credit card offered by the bank on the basis of the condition or requirement that a customer also obtain a loan, discount, deposit, or trust service (but no other products) from another subsidiary of the card-issuing bank's parent holding company, if the credit card and the loan,

discount, deposit, or trust service offered in the arrangement are also separately available for purchase by a customer. The exemption granted pursuant to this paragraph shall terminate upon a finding by the Board that the arrangement is resulting in anticompetitive practices.

By order of the Board of Governors of the Federal Reserve System, November 8, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-26901 Filed 11-14-90; 8:45 am]

BILLING CODE 6210-01-M

#### DEPARTMENT OF ENERGY

#### Federal Energy Regulatory Commission

#### 18 CFR Part 271

[Docket No. RM86-7-002; Order No. 473-B]

#### Compression Allowances and Protest Procedures Under NGPA Section 110

Issued November 7, 1990.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order on remand clarifying procedures under order Nos. 473 and 473-A.

**SUMMARY:** The Federal Energy Regulatory Commission is clarifying the procedures under 18 CFR 271.1104, in response to *Phillips Petroleum Co. et al. v. FERC*, 902 F.2d 795 (10 Cir. 1990). The order clarifies that the presumption incorporated in 18 CFR 271.1104 that an area rate clause entitles a producer to a delivery allowance but not a compression allowance has no applicability outside of the protest procedures established in Order Nos. 473 and 473-A.

**EFFECTIVE DATE:** This order is effective November 7, 1990.

#### FOR FURTHER INFORMATION CONTACT:

Richard Mattingly, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, 202-208-2294.

#### SUPPLEMENTARY INFORMATION:

In addition to publishing the full text of this document in the *Federal Register*, this Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street NE., Washington, DC 20426. The Commission Issuance Posting System (CIPS), an electronic bulletin board service,

<sup>12</sup> For example, staff has recently completed an analysis of the lending market for small businesses. According to this study, the market for these services is relatively local in scope.

<sup>13</sup> 12 U.S.C. 1464(q)(1). During the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, amendments to similarly exempt traditional banking services offered by subsidiaries of bank holding companies from section 106's prohibitions were unsuccessfully offered in both House and Senate banking committees.

<sup>14</sup> H.R. Conf. Rep. No. 261, 100th Cong., 1st Sess. 128-29 (1987).

<sup>15</sup> In light of section 106's applicability to nonbank banks, the Board notes that the proposed amendment to Regulation Y for reduced-rate credit cards would also apply to holding companies entitled to grandfathered treatment under CEBA, subject to any additional restrictions imposed on such companies.



provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200, or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this order will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in Wordperfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street NE., Washington, DC 20426.

**Before Commissioners:** Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler and Jerry J. Langdon;

#### Order on Remand Clarifying Procedures Under Order Nos. 473 and 473-A

On April 30, 1990, the United States Court of Appeals for the Tenth Circuit issued its decision in *Phillips Petroleum Co., et al. v. FERC*, 902 F.2d 795, affirming in part and remanding in part for clarification Commission Order Nos. 473<sup>1</sup> and 473-A.<sup>2</sup> These orders established protest procedures whereby interstate pipelines or their customers could contest whether express contractual authority existed for the payment to producers of NGPA section 110 generic delivery (gathering) and compression allowances authorized by the Commission.<sup>3</sup> This order implements the court's decision.

As a part of the protest procedures established in Order Nos. 473 and 473-A, the Commission adopted the presumption that the existence of an area rate clause in the parties' contract is sufficient to authorize the producer to collect a delivery allowance, but is insufficient to authorize the collection of a compression allowance. A hearing was provided for in those instances where a pipeline or third party disputed the producer's right to collect a delivery allowance or a producer claimed the right to collect a compression allowance. The order also provided that express contractual authorization was required for a producer to collect

interest on "that portion of the amount due but not yet collected \* \* \* 18 CFR 271.1104(e)(2).

In *Phillips*, the court generally affirmed Order Nos. 473 and 473-A but remanded the orders for clarification on two points. First, the court directed the Commission to make clear that the presumption concerning the effect of an area rate clause had no applicability outside of the protest procedure. The court was concerned that absent a protest the Commission would rule on a particular claim for compression costs in accordance with the presumption, *viz.*, a producer with an area rate clause in its contract would be entitled to collect a delivery allowance but would not be permitted to collect a compression allowance. The court held that this result would render the rule substantive rather than procedural in nature and would be inconsistent with the governing principle that the intent of the contracting parties is controlling. *Phillips*, 902 F.2d at 801-802. Under the clarification of procedures mandated by the court, a producer with an area rate clause is entitled to collect a compression allowance in all cases where there is no protest to its claim.

The court also directed the Commission to clarify (1) that in the event a protest is filed and the party against whom the presumption operates produces evidence challenging the presumed fact, the presumption is eliminated from the analysis, and (2) that in making specific determinations of intent in the protest proceeding, the Commission is obligated to take account of and follow any differences with general contract law that state contract law may require. Finally, the court instructed the Commission to clarify that its "requirement for express contract authority for interest in Orders 473 and 473-A applies only to 'retroactive' allowances as stated in 18 CFR 271.1104(e) and not to non-retroactive late paid or unpaid production-related cost allowances." 902 F.2d at 805.

Accordingly, the Commission clarifies that a producer with an area rate clause is entitled to collect a compression allowance in all cases where there is no protest to its claims. In the event of a protest, specific determinations of intent will be governed by the procedures set forth above. Further, the requirement for express contract authority for interest as stated in 18 CFR 271.1104(e) is clarified as set forth above.

**The Commission orders:** The provisions of Order Nos. 473 and 473-A are clarified in accordance with the terms of this order.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26884 Filed 11-14-90; 8:45 am]

BILLING CODE 6717-01-M

#### DEPARTMENT OF THE TREASURY

#### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Part 9

[T.D. AFT 304; Ref: Notice No. 703]

RIN 1512-AA07

Mt. Harlan, CA (89F-39P)

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Treasury decision, final rule.

**SUMMARY:** This final rule establishes a viticultural area located entirely within San Benito County, California to be known as "Mt. Harlan." This final rule is based on a notice of proposed rulemaking published in the Federal Register on June 5, 1990, at 55 FR 22925, Notice No. 703. ATF believes that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers identify the wines they may purchase. The establishment of viticultural areas also allows wineries to specify further the origin of wines they offer for sale to the public.

**EFFECTIVE DATES:** December 17, 1990.

**FOR FURTHER INFORMATION CONTACT:** David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226, (202) 566-7626.

#### SUPPLEMENTARY INFORMATION:

#### Background

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin. Section 4.25a(e)(1), title 27, CFR defines an American viticultural area as a delimited grape-growing region which has been delineated in subpart C of part 9.

Section 4.25a(e)(2), title 27, CFR, outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

<sup>1</sup> 32 Fed. Reg. 21,660 (June 9, 1967); III FERC Stats. and Regs. ¶ 30,747 (1967).

<sup>2</sup> 53 Fed. Reg. 15 (Jan. 4, 1988); III FERC Stats. and Regs. ¶ 30,768 (1988).

<sup>3</sup> See Order No. 94-A, Final Rule and Order on Rehearing of Order No. 94, 48 Fed. Reg. 5152 (Feb. 3, 1983); FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,419 (1983), *reh'g denied*, Order No. 94-C 48 Fed. Reg. 24,039 (May 31, 1983); FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,454 (codified at 18 CFR 271.1100-271.1104) (1983).



(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

#### Petition

ATF received a petition proposing a viticultural area to be known as Mt. Harlan. Mt. Harlan has a prominent 3,274 foot peak, and is in the upper elevations of the Gabilan (also known as Gavilan) Mountain Range. The Gabilan Range is a short mountain range, the watershed of which serves as the boundary line between San Benito and Monterey counties.

The Mt. Harlan viticultural area lies inland, approximately twenty-five miles east of Monterey Bay and nine miles south of the city of Hollister. The eastern border of the Mt. Harlan viticultural area nearly abuts the approved viticultural areas of "Cienega Valley," "Lime Kiln Valley" and "San Benito," but is included in none. The combined effects that unique soil composition, elevation and microclimate have upon the production of grapes grown in the Mt. Harlan viticultural area distinguish it from the other viticultural areas in San Benito County which are at lower elevations.

The Mt. Harlan viticultural area consists of approximately 7,440 acres and measures six miles at its widest point east-west and three miles north-south. Total vineyard acreage at this time consists of 44 acres with plans to establish more than 100 additional acres. Both the planned and current vineyards are planted at an elevation of around 2,200 feet, distinguishing them from any other vineyards in San Benito County.

#### 1. Evidence That the Name of the Area is Locally or Nationally Known

##### A. Historical Name Recognition and Usage

"Mt. Harlan" is named for Ulysses Grant Harlan, a rancher who settled in the northwestern region of San Benito County between 1860 and 1880. A map produced by the Department of the Interior in 1884 shows the location of two homesites for U.G. Harlan in this area: "Harlan's Cabin" in section 28, Township 14 South, Range 5 East; and "Harlan's Upper Cabin", in section 23 of the same township and range. The Harlan family was well established in the area by 1884. There are direct descendants of Ulysses Grant Harlan in the area to this day.

##### B. Current Name Recognition and Usage

Because of its prominence, Mt. Harlan is firmly fixed as a place name and landmark, and is currently recognized and referred to as a distinct region of San Benito County. The California Department of Forestry, the California Department of Fish and Game, and the United States Geological Survey Division of the Department of the Interior, all use Mt. Harlan to pinpoint areas of interest respective to their department's particular needs. The name is also used to identify the area surrounding the summit.

It was the size of Mt. Harlan in relation to the surrounding features in this area of the county which led the United States Geological Survey ("U.S.G.S.") to name the 7.5 minute topographic map quadrangle of this region, "Mt. Harlan." U.S.G.S. states on its field report name sheet that the name Harlan, as attached to the mountain, has been in local usage for over sixty years. This fact is corroborated by the appearance of Mt. Harlan on a map of California produced in 1928.

The U.S.G.S. map also uses the Harlan name for physical features other than the mountain. Harlan Creek flows from the area south of Mt. Harlan to Grass Valley in the north. Harlan Mountain Road connects the area west of the summit with the area known as Lime Kiln, a low-lying area to the east. Local residents are familiar with both Harlan Mountain Road and Harlan Creek.

#### 2. Historical or Current Evidence for the Boundaries of the Viticultural Area

The petitioner submitted two U.S.G.S. Quadrangle (7.5 Minute Series) maps titled "Mt. Harlan" and "Paicines."

The peak of Mt. Harlan is in the center of the viticultural area. The western boundary is the ridge top which serves as the dividing line between

Monterey and San Benito Counties and also the watershed division. The boundary also follows, in part, two drainage channels: Thompson Creek to the south and Pescadero Creek to the west. The 1,800 foot contour defines the remainder of the viticultural area.

The preponderance of geological, geographical, historical, and contemporary evidence supports the boundaries herein established.

#### 3. Evidence Relating to the Geographic Features (Climate, Soil, Elevation, Physical Features, etc.)

##### A. Climate; Elevation; Aspect

The vineyards around Mt. Harlan are located at an elevation of around 2,200 feet where special microclimatic conditions exist. The Mt. Harlan viticultural area is distinguished from the lower elevations and valley floor by (1) cooler temperatures, (2) less incidence of fog, and (3) higher rainfall with less danger of frost as a result of differing air drainage on upland and lowland areas.

According to the *Soil Survey of San Benito County (hereafter, Soil Survey)*, the average annual temperature within the Mt. Harlan viticultural area is between 56 and 60 degrees F. This contrasts with the warmer average annual temperatures of Lime Kiln and Cienega Valleys to the northeast (60-62 degrees F.).

This dissimilarity in temperature translates into differing maturation periods for mountain grapes and valley grapes. In the mountains, the cooler temperatures retard the ripening of the grapes. Therefore, more time is required for the grapes to reach acceptable sugar levels. The warmer temperatures of the valley floor allow the varieties planted there to ripen earlier. Generally, harvest will occur two to four weeks later in Mt. Harlan than in Lime Kiln and Cienega Valleys. This difference in harvest dates further distinguishes the Mt. Harlan viticultural area from its immediate neighbors to the east.

Fog also plays a major role in distinguishing the Mt. Harlan viticultural area. Because of the higher elevations at Mt. Harlan, fog is not nearly so prevalent as it is in Cienega and Lime Kiln Valleys. As the air over the California Central Valley heats each morning, it rises, creating a suction effect that pulls the moist Pacific Ocean air inland. The Gabilan Range acts as a natural barrier to this eastward flowing cool air, keeping the cooling, moist breezes west of the valley areas. Yet the Pacific air from Monterey Bay flows into the interior through Chittenden Pass and



Pacheco Pass, bringing the effects of fog and moist air through San Benito County and into the Central Valley.

As the fog enters Cienega and Lime Kiln Valleys it may often reach the 1,400 foot elevation. At the same time that vineyards in Cienega and Lime Kiln Valleys are blanketed under fog, the vineyards on Mt. Harlan are exposed to full sun. When the fog occasionally does reach the mountain vineyards, it burns off early in the morning, sometimes a full two hours ahead of the valley. The result is more hours of sunlight on Mt. Harlan than in the valleys.

Rainfall also distinguishes the Mt. Harlan viticultural area from the neighboring viticultural areas. The disparity in rainfall between Cienega/Lime Kiln Valleys (average 16 inches annually) and Mt. Harlan (35 to 40 inches annually) is a major point of distinction.

#### B. Soils; Geology

In Lime Kiln Valley and in Cienega Valley the dominant soil series comprising the vineyards is the Hanford series. The Soil Survey characterizes this series as lowland soils which are "nearly level to sloping" and as "occurring on flood plains and fans." They occur primarily in the larger valleys. According to the Soil Survey, bedrock or hardpan is always reached at depths greater than five feet. The average depth of these soils is 70 inches. The available water holding capacity ranges from 7.5 to 8.5 inches per representative soil profile. Because they are lowland soils, they exhibit very slow runoff and only slight to moderate erosion potential. In contrast to the lowland soils which are present in Lime Kiln Valley and Cienega Valley, upland soils of the Sheridan series comprise nearly 70% of the soils in the Mt. Harlan viticultural area. These are mountainous soils which, as noted in the Soil Survey, occur west of Cienega Road and northwest of Lime Kiln Road. Bedrock or hardpan may be reached in as little as 1.5 feet from the surface. The average soil depth is 3.5 feet. The runoff is rapid, a natural result of the slope and elevation of the area (anywhere from 15%-75% slope). Therefore, the available water holding capacity ranges from two to seven inches per representative profile. Concomitantly, the erosion potential is severe to very severe.

Associated with the Sheridan soils are the Cienega and Auberry series which together make up the remaining 30% of the soils in the Mt. Harlan viticultural area. Both associated series are upland soils with similar slope to the Sheridan series (15%-75%). All three soil series

exhibit similar erosion potential and available water holding capacity.

In addition to the uniformity of its soil characteristics, Mt. Harlan contains an important and distinguishing geological feature—the presence of limestone. In discussing the Cienega soils series, the Soil Survey, notes that there "are a few small areas of limestone \* \* \* in the mountains to the west of Cienega Road." In addition, the soil Survey notes that within the Sheridan series are "areas of soils underlain by limestone." A special report issued by the California Division of Mines corroborates the findings of the soil survey. "Limestone deposits of different sizes are found in the Mt. Harlan vicinity of Cienega Valley between Pescadero Canyon and McPhails Peak." These citations place outcroppings of limestone within the Mt. Harlan viticultural area and not within Cienega Valley or Lime Kiln Valley in which the soils overlie a bedrock of limestone and dolomite.

#### Notice of Proposed Rulemaking

On June 5, 1990, Notice No. 703 was published in the *Federal Register* with a 45-day comment period. In that notice, ATF requested comments regarding the proposal to establish Mt. Harlan as an American viticultural area. ATF was particularly interested in comments concerning the eastern border of the proposed area which follows the 1,800-foot contour line. This border nearly abuts the Lime Kiln and Cienega Valley viticultural areas which have their border on the 1,400-foot contour line. In Notice No. 703, ATF stated its understanding that there are no vineyards or grape growing in the 400-foot gap between the three areas. ATF requested comments on whether the eastern boundary of the Mt. Harlan viticultural area should meet the western boundary of the Lime Kiln and Cienega Valley viticultural areas.

During the 45-day comment period, no comments were received. ATF believes the eastern boundary of the Mt. Harlan viticultural area should follow the 1,800 foot contour line.

#### Miscellaneous

ATF does not wish to give the impression by approving "Mt. Harlan" as a viticultural area that it is approving or endorsing the quality of the wine derived from this area. ATF is approving this area as being distinct and not better than other areas. By approving this viticultural area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes.

Any commercial advantage gained can only come from consumer acceptance of wines from "Mt. Harlan."

#### Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the final rule is not expected (1) to have secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

#### Executive Order 12291

It has been determined that this document is not a major regulation as defined in E.O. 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual, Federal, State, or local government agencies or geographical regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there is no requirement to collect information.

#### Drafting Information

The principal author of this document is David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

#### List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

#### Authority And Issuance

27 CFR part 9, American Viticultural Areas, is amended as follows:

#### PART 9—[AMENDED]

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.



Par. 2. The table of contents in 27 CFR part 9, subpart C, is amended to add the title of § 9.131 to read as follows:

**Subpart C—Approved American Viticultural Areas**

Sec.

\* \* \* \* \*

**§ 9.131 Mt. Harlan.**

Par. 3. Subpart C is amended by adding § 9.131 to read as follows:

**Subpart C—Approved American Viticultural Areas**

**§ 9.131 Mt. Harlan.**

(a) *Name.* The name of the viticultural area described in this section is "Mt. Harlan."

*Approved Maps.* The appropriate maps for determining the boundaries of the "Mt. Harlan" viticultural area are two U.S.G.S. Quadrangle (7.5 Minute Series) maps. They are titled:

(1) Mt. Harlan, California (Photorevised (1984)).

(2) Paicines, California (Photorevised (1984)).

(c) *Boundaries.* (1) The point of beginning is the unnamed 3,063' peak on the county line between San Benito and Monterey Counties in Township 14 S., Range 5 E., Section 34 of the "Mt. Harlan," California Quadrangle map.

(2) From the point of beginning on the Mt. Harlan Quadrangle map proceed in a generally northwesterly direction along the county line through Sections 34 and 33, briefly into Section 28 and back through Section 33, and then through Sections 32, 29, and 30 all in Township 14 S., Range 5 E., to the point at which the county line intersects the line between Sections 30 and 19 of said Township and Range.

(3) Thence proceed in a straight line northeast approximately 750 feet to the commencement of the westernmost stream leading into Pescadero Creek. The stream commences in the southwest corner of Section 19 in Township 14 S., Range 5 E.

(4) Thence following the stream in a northeasterly direction to its intersection with the 1,800-foot contour line near the center of Section 19 in Township 14 S., Range 5 E.

(5) Thence following the 1,800' contour line in a southeasterly and then northeasterly direction through Sections 19, 20, 17, 16, 15, 14, then through the area north of Section 14, then southerly through Section 13 on the Mt. Harlan Quadrangle map and continuing on the "Paicines," California Quadrangle map to the point at which the 1800-foot contour line intersects the line between

Sections 13 and 24 of Township 14 S., Range 5 E.

(6) Thence along the 1,800' contour line through Section 24, back up through Section 13, and then in a southerly direction through Sections 18, 19, and 30 (all on the Paicines Quadrangle map), then westerly through Section 25 on the Paicines Quadrangle map and continuing on the Mt. Harlan Quadrangle map, and then through Section 26 to the point of intersection of said 1,800' contour and Thompson Creek near the center of Section 26 in Township 14 S., Range 5 E., on the Mt. Harlan Quadrangle map.

(7) Thence southwesterly along Thompson Creek to its commencement in the northwest corner of Section 34, Township 14 S., Range 5 E.

(8) Thence in a straight line to the beginning point.

Signed: October 10, 1990.

Daniel R. Black,

Acting Director.

Approved: October 19, 1990.

Dennis M. O'Connell,

Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 90-26890 Filed 11-14-90; 8:45 am]

BILLING CODE 4810-31-M

**27 CFR Part 9**

[T.D. ATF-305 Re; Notice No. 705]

RIN 1512-AA07

**Establishment of San Ysidro District, Viticultural Area (89F018P)**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

**ACTION:** Treasury decision; Final rule.

**SUMMARY:** This final rule establishes a viticultural area in Santa Clara County, California, to be known as "San Ysidro District." This final rule is based on a notice of proposed rulemaking published in the *Federal Register* on July 5, 1990, at 55 FR 27652, Notice No. 705. ATF believes the establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will allow wineries to designate the specific grape-growing area in which the grapes used in their wines were grown and will enable consumers to better identify wines they purchase.

**EFFECTIVE DATE:** December 17, 1990.

**FOR FURTHER INFORMATION CONTACT:** Marjorie Dundas, Wine and Beer Branch, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202) 566-7626.

**SUPPLEMENTARY INFORMATION:**

**Background**

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added to title 27 a new part 9 for the listing of approved American viticultural areas. Section 4.25a(e)(1) of 27 CFR defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition shall include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the proposed viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and,

(e) A copy of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

**Petition**

ATF initially received a petition from Mr. Barry Jackson of Harmony Wine Co. proposing, on behalf of the owners of the Mistral Vineyard and the San Ysidro Vineyard, the establishment of a viticultural area in Santa Clara County, California, to be known as "San Ysidro." The petitioner subsequently amended the petition to request that the name be changed to "San Ysidro District." The viticultural area is located in southern Santa Clara County, California, about four miles east of the town of Gilroy. There are approximately 520 acres planted to winegrape varieties at the two commercial vineyards within the 2,340 acre area. The petitioner provided the following information as evidence that the area meets the regulatory criteria.

**Evidence of Name**

The petitioner provided documentation from various sources to support the name "San Ysidro." The



petition states that the name San Ysidro derives from the name of the original Spanish rancho granted in 1809 or 1810 by Governor Arrillaga to Ignacio Ortega. The petitioner also submitted an article from the February 1988 edition of *Wines & Vines* entitled "Special Wines from San Ysidro Vineyard," which states that there are "two vineyards in the San Ysidro area, San Ysidro itself and the Mistral Vineyard; each vineyard has about 250 planted acres. The San Ysidro growing area is located in a cool microclimate east of Hollister in Santa Clara county, south of San Francisco."

In support of the name "San Ysidro District," the petitioner submitted an article entitled "Winery shines in Santa Clara—Awards boost Congress Springs' reputation," (*San Jose Mercury News*, June 7, 1988) which refers to vineyards in the "San Ysidro District, which is cooled by sea breezes that find their way inland by way of Watsonville."

#### Local Viticultural History

Until the turn of the century, the dominant agricultural activity in the area was dairying. From 1876 to the early 1930's, although dairying remained important, some orchards and vineyards were planted. Beginning in the late 1930's, increased awareness of the benefits of a cool climate in the growing of premium white varieties led to a gradual increase in the amount of land on which grapes were commercially grown.

There are two commercial vineyards within the viticultural area: Mistral Vineyard and San Ysidro Vineyard. The two vineyards comprise approximately 520 acres under cultivation. There are currently five wineries producing vineyard designated wines from the area.

#### Geographical/Climatological Features

The San Ysidro District is entirely within the Santa Clara Valley viticultural area which was established by T.D. ATF-286. The San Ysidro District lies to the east of the town of Gilroy, on the eastern edge of the Santa Clara Valley and in the foothills of the Diablo Range. The San Ysidro Creek runs through the vineyards and is part of the upper watershed for the Pajaro River. This proximity to the Pajaro River and the resultant effect on the microclimate at San Ysidro is the primary factor distinguishing this area from the rest of the Santa Clara Valley. The Pajaro Gap and Chittenden Pass, through which the river flows, act as a funnel for cool maritime air being pulled into the San Joaquin Valley through the Pacheco Pass. Because of the cool ocean air flowing over the area, fog in the San

Ysidro District area is subject to earlier accumulation in the evening and later burn-off in the morning than in the surrounding area. This maritime influence also results in afternoon breezes that moderate the daily high temperature, even during summer months. The average temperature, due to the marine influence, is 2085 degree-days. This corresponds to a Region I climate, based on the University of California-Davis heat summation method. Much of the Santa Clara Valley area is classified as a Region II climate, based on 2700 degree-days. Even the nearby town of Gilroy is substantially warmer, at 2630 degree-days.

The soil is loamy, with some clay and gravel, and is generally well drained. The primary soil associations in the lower slopes are the Zamora-Pleasanton-San Ysidro loams. The soil associations in the upland-foothill areas are the Azule-Altamont-Los Gatos-Gaviota complexes. By contrast, the soil of the Santa Clara Valley, the approved viticultural area within which the San Ysidro District is located, is composed primarily of the Yolo and Zamora-Arbuckle-Pleasanton Associations.

#### Boundary

The northern, eastern and southern boundaries of the San Ysidro District viticultural area consist primarily of streams and ridges reaching a maximum of 600 feet above sea level. The higher areas of the Diablo Range to the north and east of the boundary are not cultivated. The petitioner presented evidence that Highway 152, used as a western boundary, had been an Indian trail and a pioneer wagon road. The petitioner stated that the historical tendency of travellers to follow this route derives from the fact that it represents "a natural boundary between drier, upland foothill, and lower, poorly drained valley bottom land \* \* \*."

#### Notice of Proposed Rulemaking

On July 5, 1990, Notice No. 705 was published in the *Federal Register* with a 45-day comment period. In that notice, ATF requested comments regarding the proposal to establish San Ysidro District as an American viticultural area. During the comment period, no comments were received.

#### Miscellaneous

ATF does not wish to give the impression by approving "San Ysidro District" as a viticultural area that it is approving or endorsing the quality of the wine derived from the area. ATF is approving this area as being distinct and not better than other areas. By approving this area, ATF will allow

wine producers to claim a distinction on labels and in advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of wines from "San Ysidro District."

#### Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the final rule is not expected (1) to have secondary, or incidental effects on a substantial number of small entities, or (2) to impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

#### Executive Order 12291

It has been determined that this document is not a major regulation as defined in E.O. 12291 because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no requirement to collect information is imposed.

#### Drafting Information

The principal author of this document is Marjorie Dundas, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

#### List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

#### Authority and Issuance

Title 27, Code of Federal Regulations, part 9, American Viticultural Areas is amended as follows:



**PART 9—AMERICAN VITICULTURAL AREAS**

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Paragraph 2. The Table of sections in subpart C is amended to add the title of § 9.130 to read as follows:

**Subpart C—Approved American Viticultural Areas**

Sec.

\* \* \* \* \*

9.130 San Ysidro District.

\* \* \* \* \*

Paragraph 3. Subpart C is amended by adding § 9.130 to read as follows:

**Subpart C—Approved American Viticultural Areas**

\* \* \* \* \*

**§ 9.130 San Ysidro District.**

(a) Name. The name of the viticultural area described in this section is "San Ysidro District."

(b) Approved maps. The appropriate maps for determining the boundaries of the San Ysidro District viticultural area are four U.S.G.S. Quadrangle (7.5 minute series) maps. They are titled:

- (1) Gilroy, Calif., 1955 (photorevised 1981);
- (2) Chittenden, Calif., 1955 (photorevised 1980);
- (3) San Felipe, Calif., 1955 (photorevised 1971);
- (4) Gilroy Hot Springs, Calif., 1955 (photorevised 1971, photoinspired 1978.)

(c) Boundary. The San Ysidro District viticultural area is located in Santa Clara County, California, within the Santa Clara Valley viticultural area. The boundary is as follows:

(1) The beginning point is the intersection of California State Highway 152 and Ferguson Road with an unnamed wash, or intermittent stream, on the Gilroy, Calif., U.S.G.S. map;

(2) From the beginning point, the boundary follows the wash northeast as it runs co-incident with the old Grant boundary for approximately 3,800 feet;

(3) The boundary then follows the wash when it diverges from the old Grant boundary and continues approximately 2,300 feet in a northeasterly direction, crosses and recrosses Crews Road, then follows the wash southeast until the wash turns northeast in section 35, T.10S., R.4E., on the Gilroy Hot Springs, Calif., map;

(4) The boundary then diverges from the wash, continuing in a straight line in a southeasterly direction, across an

unimproved road, until it intersects with the 600 foot contour line.

(5) The boundary then proceeds in a straight line at about the 600 foot elevation in a southeasterly direction until it meets the minor northerly drainage of the San Ysidro Creek;

(6) The boundary then follows the minor northerly drainage of San Ysidro Creek southeast for approximately 2,000 feet to the seasonal pond adjacent to Canada Road;

(7) From the seasonal pond, the boundary follows the southerly drainage of San Ysidro Creek for about 1,300 feet until it reaches the southwest corner of section 36, T.10S., R.4E.;

(8) The boundary then continues in a straight line in a southerly direction across Canada Road for approximately 900 feet until it intersects with the 600 foot contour line;

(9) The boundary follows the 600 foot contour line for approximately 6,000 feet in a generally southeasterly direction, diverges from the contour line and continues southeast another 1,200 feet until it meets an unimproved road near the north end of a seasonal pond on the San Felipe, Calif., U.S.G.S. map;

(10) The boundary follows the unimproved road to Bench Mark 160 at Highway 152.

(11) The boundary then follows Highway 152 in a northwesterly direction across the northeast corner of the Chittenden, Calif., U.S.G.S. map, and back to the beginning point at the junction of Ferguson Road and Highway 152.

Signed: October 17, 1990.

Stephen E. Higgins,  
Director.

Approved: October 19, 1990.

Dennis M. O'Connell,  
Deputy Assistant Secretary (Regulatory,  
Tariff and Trade Enforcement).

[FR Doc. 90-26889 Filed 11-14-90; 8:45 am]

BILLING CODE 4810-31-M

**PENSION BENEFIT GUARANTY CORPORATION****29 CFR Part 2619****Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional PBGC Rates**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning December 1, 1990. The use of

these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The Pension Benefit Guaranty Corporation adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after December 1, 1990 and will remain in effect until the PBGC issues new interest rates and factors.

**EFFECTIVE DATE:** December 1, 1990.

**FOR FURTHER INFORMATION CONTACT:**

J. Ronald Goldstein, Senior Counsel,  
Office of the General Counsel, Code  
22500, Pension Benefit Guaranty  
Corporation, 2020 K Street NW.,  
Washington, DC 20006, 202-778-8850,  
(202-778-8859 for TTY and TDD only).  
These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:** The Pension Benefit Guaranty Corporation's ("PBGC's") regulation on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Under ERISA section 4041(c), all plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities", i.e., all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619. Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required. (Such plans may value benefit liabilities that are payable as annuities on the basis of a qualifying bid obtained from an insurer.)

Appendix B in part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since November 1, 1990. This amendment adds to appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after December 1, 1990, which set reflects a decrease of ¼ percent in the immediate interest rate from 7¾ to 7½ percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates



and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after December 1, 1990, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making

the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of \$100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

#### List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

In consideration of the foregoing, part 2619 of chapter XXVI, title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, and 1362 (1988).

2. Rate Set 88 of appendix B is revised and Rate Set 89 of appendix B is added to read as follows: The introductory text is republished for the convenience of the reader and remains unchanged.

#### Appendix B—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "Cy" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities,  $k_1$ ,  $k_2$ ,  $k_3$ ,  $n_1$ , and  $n_2$  are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after	and before		$k_1$	$k_2$	$k_3$	$n_1$	$n_2$
88	11-1-90	12-1-90	7.75	1.0700	1.0575	1.0400	7	8
89	12-1-90		7.50	1.0675	1.0550	1.0400	7	8

James B. Lockhart III,  
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 90-26795 Filed 11-14-90; 8:45 am]

BILLING CODE 7708-01-M

#### 29 CFR Part 2676

##### Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

**SUMMARY:** This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employees Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not

the rates are changing. This amendment adds to the table the rate series for the month of December 1990.

**EFFECTIVE DATE:** December 1, 1990.

**FOR FURTHER INFORMATION CONTACT:** Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington DC 20006; 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:** The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (See 5 U.S.C. § 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. § 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual

effect on the economy of \$100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### List of Subjects in 29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, part 2676 of subchapter H of chapter XXVI of title 29, Code of Federal Regulations, is amended as follows:

#### PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

##### § 2676.15 Interest.

(c) Interest Rates.



For valuation dates occurring in the month:	The values for $i_k$ are:															
	$i_1$	$i_2$	$i_3$	$i_4$	$i_5$	$i_6$	$i_7$	$i_8$	$i_9$	$i_{10}$	$i_{11}$	$i_{12}$	$i_{13}$	$i_{14}$	$i_{15}$	$i_{16}$
December 1990..	08875	.08625	.08375	.08	.07625	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.05875

Issued at Washington, DC, on this 7th day of November 1990.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 90-26794 Filed 11-14-90; 8:45 am]

BILLING CODE 7708-01-M

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 250

##### RIN 1010-AB41

### Oil and Gas and Sulphur Operations in the Outer Continental Shelf

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulatory program of the Minerals Management Service (MMS) Governing offshore oil and gas operations by correcting a number of typographical errors and making minor revisions to several sections in 30 CFR PART 250. Some of the revisions contain requirements that were previously contained in the Outer Continental Shelf (OCS) Orders or in 30 CFR part 250 prior to the restructuring and consolidation of the offshore operating requirements under 30 CFR part 250.

**EFFECTIVE DATE:** December 17, 1990.

#### FOR FURTHER INFORMATION CONTACT:

Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Minerals Management Service; Mail Stop 4700; 381 Elden Street; Herndon, Virginia 22070-4817, telephone (703) 787-1600 or (FTS) 393-1600.

**SUPPLEMENTARY INFORMATION:** The final rule published by MMS in the Federal Register on April 1, 1988 (53 FR 10596), consolidated and restructured existing rules contained in the regulations, OCS Orders, and Notices to Lessees and Operators. Since the final rule has been in effect, MMS has discovered a number of typographical errors and several

minor inconsistencies between the previous regulations and OCS Orders and the final rule. These inconsistencies could be viewed as a change from previous requirements when no change was intended. On March 8, 1990 (55 FR 8485), MMS issued a notice of proposed rulemaking (NPR) in the Federal Register to correct these typographical errors and minor inconsistencies that existed between the previous regulations and OCS Orders and the final rule. The comment period for the proposed rule closed on May 7, 1990.

#### Public Comments and Agency Response

The following discussion summarizes the public comments received in response to the NPR. The MMS received six written comments on the proposed rule. Among the commenters were three gas pipeline and transmission companies, two trade organizations, and one oil and gas exploration and production company. Sections 250.72, Equipment movement, and 250.183, Site security, were the only portions of the proposed rule that were commented upon.

#### Section 250.72 Equipment Movement

**Comment—**Two commenters recommended that MMS should not replace the phrase "shut-in back-pressure valve" with "subsurface safety valve." One commenter stated that the term "back-pressure valve" should continue to be used because a subsurface safety valve does not provide an adequate margin of safety for the removal of the blowout preventer when installing the tree. The second commenter recommended that the terminology used in this section should be consistent with that used in Subpart F—Well-Workover Operations in § 250.92, Equipment movement. Section 250.92 uses the term "back-pressure valve."

**Response—**This recommendation was adopted. The MMS agrees that the terminology used throughout the regulations should be consistent. In addition, the use of a back-pressure

valve versus a subsurface safety valve is a more appropriate safety precaution because a subsurface safety valve may already be used to shut in the well during the movement of well-completion equipment.

#### Section 250.183 Site Security

**Comment—**Five commenters strongly opposed the proposed requirements for sealing gas metering units and recommended that the proposal be dropped from further rulemaking. All of these commenters indicated that they had never experienced any security problems with gas meter units and that they were not aware of any reported instances of tampering with gas meters in the OCS. They stated that modifying the gas meter units to accommodate the seals required by the NPR would place an unnecessary and costly burden upon the owners of the gas meters. They further stated that under the provisions of the NPR many seals on the gas meters would have to be broken and replaced on a daily or weekly basis, increasing the cost and time burden for maintaining the seals and their associated recordkeeping. One commenter stated that this revision to the regulations was not a minor amendment as purported by MMS in the preamble to the NPR. The overall consensus of the commenters was that the proposed requirements for sealing gas meter unit components were unjustified and unnecessary. However, three of the commenters advised that sealing the crank to the orifice-fitting housing would provide adequate security measures if MMS was still convinced that increased security for gas metering units was necessary.

**Response—**The proposed requirements regarding site security for gas production have not been included in the final rule; therefore, § 250.183 will not be amended at this time. The MMS has decided that the issues associated with site security for gas measurement warrant further review and analysis. Two MMS task forces are scheduled to address production measurement and



inspection issues. They will review these issues and make appropriate recommendations. If it is decided that amendments to the regulations for site security for gas measurement are needed, those amendments will be published in the **Federal Register** in a separate final rule document, unless it is determined that a new NPR should be published for public review and comment.

#### Author

This document was prepared by William S. Hauser, Offshore Rules and Operations Division, MMS.

#### Executive Order (E.O.) 12291

The Department of the Interior (DOI) has determined that this final rule does not constitute a major rule under E.O. 12291 because it will not result in a cost impact of more than \$100 million annually. Therefore, a Regulatory Impact Analysis is not required.

#### Regulatory Flexibility Act

The DOI has also determined that this final rule will not have a significant economic effect on a substantial number of small entities because, in general, the entities that engage in activities offshore are not considered small due to the technical complexities and financial resources necessary to conduct such activities.

#### Paperwork Reduction Act

The information collection contained in this rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1010-0030.

#### Takings Implication Assessment

The DOI certifies that the final rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared pursuant to E.O. 12630, Government Action and Interference with Constitutionally Protected Property Rights.

#### National Environmental Policy Act

The DOI has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.

#### List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts,

Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands-mineral resources, Public lands-rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: October 2, 1990.

Barry Williamson,

Director, Minerals Management Service.

For the reasons set forth in the preamble, 30 CFR part 250 is amended as follows:

#### PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: Section 204, Pub. L. 95-372, 92 Stat. 629 (43 U.S.C. 1334).

2. Section 250.0, paragraph (a) is amended by adding two sentences at the end of the paragraph to read as follows:

#### § 250.0 Authority for information collection.

(a) \* \* \* Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Minerals Management Service; Mail Stop 2300, 381 Elden Street; Herndon, Virginia 22070-4817, and the Office of Management and Budget; Paperwork Reduction Project 1010-0030; Washington, DC 20503.

#### § 250.1 [Amended]

3. Section 250.1, in paragraph (d)(3), remove citation "§ 250.51(g)" and add in its place the citation "§ 250.20(c)".

#### § 250.19 [Amended]

4. Section 250.19, in paragraph (a), remove the citation "§ 250.41(b)" and add in its place the citation "§ 250.41(c)".

5. Section 250.20, add a new paragraph (c) as follows:

#### § 250.20 Safe and workmanlike operations.

(c) *Crane operations.* Cranes installed on fixed platforms shall be operated and maintained in accordance with the provisions of the American Petroleum Institute (API) Recommended Practice (RP) for Operation and Maintenance of Offshore Cranes (API RP 2D) to ensure the safety of facility operations. Records of inspection, testing, maintenance, and crane operator qualifications in accordance with the provisions of API RP 2D shall be kept by the lessee at the lessee's field office nearest the Outer Continental Shelf (OCS) facility for a period of 2 years.

6. Section 250.32, add a new paragraph (c) as follows:

#### § 250.32 Well location and spacing.

(c) The lessee shall drill and produce the wells the Regional Supervisor determines are necessary to protect the lessor from loss by reason of production on other properties or in lieu thereof, with the approval of the Regional Supervisor, pay a sum determined by the Regional Supervisor as adequate to compensate the lessor for the lessee's failure to drill and produce any well. Payment of that sum shall be considered as the equivalent of production in paying quantities for the purpose of extending the lease term.

#### § 250.34 [Amended]

7. Section 250.34, in the second sentence of paragraph (t), remove the phrase "All applications for an APD to drill" and add in its place the phrase "All APD's".

#### § 250.51 [Amended]

8. Section 250.51, remove paragraph (g) and redesignate paragraphs (h) and (i) as paragraphs (g) and (h), respectively.

#### § 250.60 [Amended]

9. Section 250.60, remove the word "enclosed" from the title of paragraph (e).

#### § 250.72 [Amended]

10. Section 250.72, in the last sentence, remove the phrase "shut-in".

#### § 250.86 [Amended]

11. Section 250.86, in the fourth sentence of paragraph (b)(2), remove the word "the" at the beginning of the sentence and add in its place the word "The" and remove the last word "operation" and add in its place the word "operations".



**§ 250.87 [Amended]**

12. Section 250.87, in the first sentence of paragraph (d) add the phrase "shall have a pressure rating greater than the shut-in tubing pressure and" between the words "equipment" and "shall".

**§ 250.107 [Amended]**

13. Section 250.107, in the first sentence of paragraph (d) add the phrase "shall have a pressure rating greater than the shut-in tubing pressure and" between the words "equipment" and "shall".

**§ 250.123 [Amended]**

14. Section 250.123, in the first sentence of paragraph (b)(1)(iii) remove the phrase "a significant change in operating pressures" and add in its place the phrase "a change in operating pressures that requires new settings for the high-pressure shut-in sensor and/or the low-pressure shut-in sensor as provided herein".

**§ 250.123 [Amended]**

15. Section 250.123, in the first sentence of paragraph (b)(7) introductory text remove the phrase "section A8" and add in its place the phrase "sections A4 and A8".

**§ 250.124 [Amended]**

16. Section 250.124, remove the last sentence of paragraph (a)(1)(ii).

**§ 250.126 [Amended]**

17. Section 250.126, in paragraph (e)(2), remove the phrase "API RP 14A or API RP 14D" and add in its place the phrase "API Spec 14A or API Spec 14D".

**§ 250.159 [Amended]**

18. Section 250.159, in paragraph (c)(7)(i), add the phrase "determine to be reasonable, taking into account, among other things," between the words "parties," and "conservation".

[FR Doc. 90-26906 Filed 11-14-90; 8:45 am]

BILLING CODE 4310-MR-M

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

[CGD7-90-76]

**Drawbridge Operation Regulations; St. Johns River, FL**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** At the request of the State of Florida, the Coast Guard is changing the regulations governing the operation of three drawbridges across the St. Johns

River at Jacksonville, Florida, the Main Street (US17) Bridge, mile 24.7, the Acosta (SR13) Bridge, mile 24.9 and the Fuller Warren (I10/195) Bridge, mile 25.4, in order to improve the flow of peak morning commuter traffic. This action accommodates the needs of vehicular traffic and still provides for the reasonable needs of navigation.

**EFFECTIVE DATE:** These regulations become effective on December 17, 1990.

**FOR FURTHER INFORMATION CONTACT:** Gary D. Pruitt, (305) 536-4103.

**SUPPLEMENTARY INFORMATION:** On August 17, 1990 the Coast Guard published a proposed rule (55 FR 33723) concerning this change. The Commander, Seventh Coast Guard District, also published the proposal as Public Notice 24-90 dated August 24, 1990.

Interested persons were given until October 1, 1990 to comment.

**Drafting Information**

The drafters of these regulations are Bridge Administration Specialist Gary D. Pruitt, project officer, and Lieutenant Genelle G. Tanos, project attorney.

**Discussion of Comments**

No comments were received on the proposed change. The final rule is unchanged from the proposed rule published on August 17, 1990.

**Federalism**

This action has been analyzed in accordance with the principals and criteria contained in Executive Order 12612, and it has been determined that the final rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Economic Assessment and Certification**

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the final rulemaking will not change the total amount of time these bridges are allowed to be maintained in the closed position. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that it will not have a significant impact on a substantial number of small entities.

**List of Subjects in 33 CFR Part 117**

Bridges.

**Regulations**

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

1. The authority citation for part 117 continues to read as follows:

Authority: 33 USC 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.325(a) is revised to read as follows:

**§ 117.325 St. Johns River.**

(a) The draws of the Main Street (US17) Bridge, mile 24.7, the Acosta (SR13) Bridge, mile 24.9 and the Fuller Warren (I10/195) Bridge, mile 25.4, all at Jacksonville, shall open on signal except that, from 7 a.m. to 8:30 a.m. and 4:30 p.m. to 6 p.m., Monday through Saturday except federal holidays, the draws need not be opened for the passage of vessels. The draws shall open at any time for vessels in an emergency involving life or property.

Dated: October 29, 1990.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 90-26897 Filed 11-14-90; 8:45 am]

BILLING CODE 4910-14-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR 82**

[FRL-3860-9]

**Protection of Stratospheric Ozone**

AGENCY: Environmental Protection Agency.

ACTION: Technical amendment.

**SUMMARY:** Today's notice amends the list of Article 5 Parties in appendix E of the stratospheric ozone protection regulations (40 CFR part 82). Article 5 Parties are developing countries that are Party to the Montreal Protocol on Substances that Deplete the Ozone Layer and whose per capita consumption of certain chlorofluorocarbons controlled by the Protocol is less than 0.3 kilograms. The Protocol and EPA's implementing regulations permit companies that export controlled substances to Article 5 Parties to increase their production of such substances up to the specified limits. The countries added to appendix E today have been designated by the



United Nations Environmental Programme (UNEP), which serves as the Protocol's Secretariat, as Parties operating under Article 5. The countries are Jordan and Malaysia. This amendment also clarifies the Agency's position regarding the granting of requests for authorizations to convert potential production rights to actual production rights after the end of the control period.

**DATES:** This technical amendment is effective November 15, 1990.

**ADDRESSES:** Comments and other information relevant to this rulemaking are maintained in Docket A-87-20 at the Air Docket Room M-1500, First Floor, Waterside Mall, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The docket may be inspected between 8 a.m. and 3:30 p.m. on weekdays. As provided in 20 CFR part 2, a reasonable fee may be charged for photocopying.

**FOR FURTHER INFORMATION CONTACT:**

Lena Nirk, Stratospheric Ozone Protection Branch, Global Change Division, Office of Atmospheric and Indoor Air Programs, Office of Air and Radiation, ANR-445, 401 M Street SW., Washington, DC 20460. (202) 382-7750.

**SUPPLEMENTARY INFORMATION:** On August 12, 1988, EPA promulgated a final rule to limit the production and consumption of certain chlorofluorocarbons (CFCs) and brominated compounds (halons) to reduce the risks of stratospheric ozone depletion. The rule implements the requirements of the Montreal Protocol, which the United States ratified on April 21, 1988, by allocating production and consumption allowances to firms that produced and imported these chemicals in 1986, based on their 1986 levels of these activities. In addition, producers received potential production allowances equal to 10 percent of their 1986 production levels. These potential production allowances can be converted to production allowances upon proof of export of controlled substances to Article 5 Parties.

**Amendment to Appendix E**

On June 22, 1990 the Agency published a final rule designating three countries as Article 5 Parties in appendix E (55 FR 25812). These countries are Mexico, Venezuela and Thailand. At that time, the Agency noted that it would amend that list if additional information warranted or if the Secretariat formally designated a country as an Article 5 Party. The Agency stated that if the Secretariat made such a designation, the Agency would view the addition of that country to appendix E as a purely

ministerial task for which notice and comment was not necessary.

At the London meetings held in June, 1990 to revise the Protocol, the Secretariat published the Revised Report on Data on Production, Imports, Exports and Consumption of Substances Listed in Annex A of the Montreal Protocol. In communications with the Secretariat, EPA learned that this report has again been revised based on data received June 19, 1990. This revised report designates additional countries as Parties to the Protocol operating under Article 5 status. Two of the countries, Venezuela and Mexico, were designated as Article 5 Parties in appendix E in the June, 1990 final rule. Jordan and Malaysia are added to appendix E today based on their designation as Article 5 Parties by the Secretariat. This revised appendix E is effective retroactively for the first control period.

As stated in the June 22, 1990 final rule, EPA reserves the right to modify this list based on additional information, or if the Secretariat further designates Parties as operating under Article 5. As in today's technical amendment, if the Secretariat formally designates a country as an Article 5 Party, the Agency views the addition of that country to appendix E as purely a ministerial task for which notice and comment are unnecessary. If the Agency receives information which would lead it to classify a country as an Article 5 Party, the Agency will propose to add the country to appendix E through notice and comment rulemaking if it has not been formerly designated by UNEP.

**Granting of Requests for Authorizations to Convert**

The Agency has had several requests for information regarding the granting of requests for authorizations to convert after the end of the control period. Authorizations are required to convert potential production allowances to production allowances, and are granted for exports to Article 5 countries. Because additional allowances and authorizations from exports are only valid for the control period in which the export occurred, the Agency did not anticipate receiving requests after the end of the control period. As a result of an exemption to the excise tax on CFCs for exports to Article 5 countries, however, some companies have requested authorization to convert after the end of the control period which ended June 30, 1990. The authorizations to convert allow companies to designate previous production as production exported to Article 5 countries. Such production is exempt from the tax.

The Agency intends to allow companies to request authorizations to convert for 45 days after the end of the control period (the same amount of time allowed for submission of the final quarterly reports). This time limit only applies to submissions documenting exports to existing Article 5 countries. The approval letter will clearly spell out that these authorizations may not be used in the current control period. After 45 days, the control period is "closed" and not further requests will be processed. Requests for authorizations to convert for exports are the only transactions that will be approved after the end of the control period (except for the final quarterly reports and end-of-year export reports). No other transactions will be approved after the end of the control period (including all trades, transfers and feedstock requests). The Agency intends to follow this procedure as an administrative interpretation of the final rule, without further rulemaking.

**Additional Information**

**1. Executive Order 12291**

Executive order (E.O.) 12291 requires the preparation of a regulatory impact analysis for major rules, defined by the order as those likely to result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in cost or prices for consumers, individual industries, federal, state or local government agencies, or geographic industries; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of the United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

EPA determined that its August 12, 1988 final rule to protect stratospheric ozone met with the definition of a major rule, and therefore prepared a regulatory impact analysis (RIA). Since these amendments do not impose any significant burdens as defined by E.O. 12291, the RIA prepared for the final rule fulfills the executive order's requirement for these proposals.

**2. Regulatory Flexibility Act**

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires that Federal agencies examine the impacts of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment and initial regulatory flexibility analysis (RFA). Such an analysis is not required



if the head of the agency certifies that a rule will not have a significant impact on a large number of small entities, pursuant to 5 U.S.C. 605(b). EPA prepared an initial RFA in support of its final rule, and no additional RFA need be prepared for these amendments.

### 3. List of Docket Material

(1) Report of the Executive Director of the United Nations Environment Programme, Secretariat of the Montreal Protocol, Addendum: Revised Report on Data on Production, Imports, Exports and Consumption of Substances Listed in Annex A of the Montreal Protocol.

(2) Fax to Lena Nirk, Global Change Division, from Megumi Seki, Ozone Secretariat.

Dated: November 2, 1990.

Michael Shapiro,

Acting Assistant Administrator.

List of Subject in 40 CFR Part 82

Stratospheric Ozone.

## PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The Authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7457 (b)

2. Part 82 is amended by revising appendix E to read as follows:

### Appendix E—Article 5 Parties

Mexico, Venezuela, Thailand, Jordan, Malaysia.

[FR Doc 90-26933 Filed 11-14-90; 8:45 am]

[BILLING CODE 6560-50-M]

## ACTION

### 45 CFR Part 1214

#### Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by ACTION

AGENCY: ACTION.

ACTION: Final rule.

**SUMMARY:** This regulation requires that ACTION operate all of its programs and activities so that qualified handicapped persons are not subjected to discrimination by ACTION. It sets forth standards for what constitutes discrimination on the basis of mental or physical handicap, provides a definition for handicapped person and qualified handicapped person, and establishes a detailed complaint mechanism for resolving allegations of discrimination against ACTION. This regulation implements section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the

basis of handicap in programs or activities conducted by Federal executive agencies.

**EFFECTIVE DATE:** January 14, 1991.

#### FOR FURTHER INFORMATION CONTACT:

Nancy Voss, Director, Equal Opportunity Staff, ACTION at (202) 634-9312 (Voice) or (202) 634-9256 (TDD). These are not toll-free numbers. Copies of this regulation are available on tape for persons with visual impairments.

#### SUPPLEMENTARY INFORMATION:

##### Background

The purpose of this rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by ACTION. As amended by the Rehabilitation, Comprehensive Services, and Development Disabilities Amendments of 1978 (Sec. 199, Pub. L. 95-602, 92 Stat. 2982), section 504 of the Rehabilitation Act of 1973 states that:

No otherwise qualified individual with handicaps in the United States, \* \* \* shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

On September 18, 1989, ACTION published a notice of proposed Rulemaking (NPRM) for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs and activities conducted by ACTION. 54 FR 38401. ACTION received one response with comments on the NPRM. After analysis of the comments received and the final section 504 regulation that the Department of Justice issued for its own programs and activities, ACTION decided to adopt this final rule.

The substantive nondiscrimination obligations of the agency, as set forth in this rule, are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. (See 28 CFR part 41 (section 504 coordination regulation for federally

assisted programs)). This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal government should have the same section 504 obligations as recipients of Federal financial assistance. 124 Cong. Rec. 13901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *id.*; 124 Cong. Rec. 13897 (remarks of Rep. Brademas); *id.* at 33552 (remarks of Rep. Sarasin).

There are, however, some language differences between this rule and the Federal government's section 504 regulations for federally assisted programs. These changes are based on the Supreme Court's decision in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), and the subsequent circuit court decisions interpreting Davis and section 504. See *Dopico v. Goldschmidt*, 687 F.2d 1272 (D.C. Cir. 1981) (APTA); see also *Rhode Island Handicapped Action Committee v. Rhode Island Public Transit Authority*, 718 F.2d 490 (1st Cir. 1983).

These language differences are also supported by the decision of the Supreme Court in *Alexander v. Choate*, 469 U.S. 287 (1985), where the Court held that the regulations for federally assisted programs did not require a recipient to modify its durational limitation on Medicaid coverage of inpatient hospital care for handicapped persons. Clarifying its *Davis* decision, the Court explained that section 504 requires only "reasonable" modifications, *id.* at 300, and explicitly noted that "[t]he regulations implementing 504 [for federally assisted programs] are consistent with the view that reasonable adjustments in the nature of the benefit offered must at times be made to assure meaningful access." *Id.* at 301 n.21 (emphasis added).

Incorporation of these changes, therefore, makes this regulation implementing section 504 Federally conducted programs consistent with the Federal government's regulations implementing section 504 for federally assisted programs as they have been interpreted by the Supreme Court. Many of these federally assisted regulations were issued prior to the interpretations of section 504 by the Supreme Court in *Davis*, by lower courts interpreting *Davis*, and by the Supreme Court in *Alexander*; therefore their language does not reflect the interpretation of section 504 provided by the Supreme Court and by the various circuit courts. Of course, these federally assisted regulations must



be interpreted to reflect the holdings of the Federal judiciary. Hence, the agency believes that there are no significant differences between this proposed rule for federally conducted programs and the Federal government's interpretation of section 504 regulations for federally assisted programs.

This regulation has been reviewed by the Department of Justice. It is an adaptation of a prototype prepared by the Department of Justice under Executive Order 12550 (45 FR 72995, 3 CFR, 1980 Comp., p. 298) and distributed to Executive agencies. This regulation has also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206). It is not a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR, 1981 Comp., p. 127) and, therefore, a regulatory impact analysis has not been prepared. This regulation does not have an impact on small entities. It is not, therefore, subject to the Regulatory Flexibility Act (5 U.S.C. 601-612).

#### Section-by-Section Analysis and Response To Comments

##### Section 1214.101 Purpose.

Section 1214.101 states the purpose of the rule, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

No comments were received on this section and it remains unchanged from the proposed rule.

##### Section 1214.102 Application.

The regulation applies to all programs or activities conducted by the agency. Under this section, a federally conducted program or activity is, in simple terms, anything a Federal agency does. Aside from employment, there are two major categories of federally conducted programs or activities covered by this regulation: Those involving general public contact as part of ongoing agency operations and those directly administered by the agency for program beneficiaries and participants. Activities in the first category include communication with the public (telephone contacts, office walk-ins, or interviews) and the public's use of the agency's facilities. Activities in the second category include programs that provide Federal services or benefits.

This regulation does not, however, apply to programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

No comments were received on this section.

##### Section 1214.103 Definitions.

**Agency.** For purposes of this regulation "agency" means ACTION.

**Assistant Attorney General.** Refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

**Auxiliary aids.** "Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Although auxiliary aids are required explicitly only by § 1214.160(a)(1), they may also be necessary to meet other requirements of the regulation. Auxiliary aids are addressed in § 1214.160(a)(1). Comments on the definition of "auxiliary aids" are discussed in connection with that section.

**Complete complaint.** "Complete complaint" is defined to include all the information necessary to enable the agency to investigate the complaint. The definition of "complete complaint" enables the agency to determine the beginning of its obligation to investigate a complaint (see § 1214.170(d)).

**Facility.** The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted because the term "facility" as used in this regulation refers to structures and not to intangible property rights. It should, however, be noted that the regulation applies to all programs and activities conducted by the agency regardless of whether the facility in which they are conducted is owned, leased, or used on some other basis by the agency. The term "facility" is used on §§ 1214.149, 1214.150, and 1214.170(f). Comments on the definition of "facility" are discussed in connection with § 1214.151.

**Individual with handicaps.** The definition of "individual with handicaps" is identical to the definition of "handicapped person" appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31).

**Qualified individual with handicaps.** The definition of "qualified individual with handicaps" is a revised version of the definition of "qualified handicapped person" appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32).

Paragraph (1) is an adaptation of existing definitions of "qualified handicapped person" for purposes of federally assisted preschool, elementary, and secondary education programs (see, e.g., 45 CFR 84.3(k)(2)). It provides that an individual with handicaps is qualified for preschool, elementary, or secondary education programs conducted by the agency, if he or she is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive these services from the agency. In other words, a handicapped person is qualified, if, considering all factors other than the handicapping condition, he or she is entitled to receive education services from the agency.

Paragraph (2) deviates from existing regulations for federally assisted programs because of intervening court decisions. It defines "qualified individual with handicaps" with regard to any program other than those covered by paragraph (1) under which a person is required to perform services or to achieve a level of accomplishment. In such programs a qualified individual with handicaps is one who can achieve the purpose of the program without modifications in the program that the agency can demonstrate would result in a fundamental alteration in its nature. This definition reflects the decision of the Supreme Court in *Davis*. In that case, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program was modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives." *Id.* at 410. It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways," *id.* at 413, and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It therefore concluded that the school was not required by section 504 to make such modifications that would result in "a fundamental alteration in the nature of the program." *Id.* at 410.



We have incorporated the Court's language in the definition of "qualified individual with handicaps" in order to make clear that such a person must be able to participate in the program offered by the agency. The agency is required to make modifications in order to enable an applicant with handicaps to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant can achieve the purpose of the program offered; not whether the applicant could benefit or obtain results from some other program that the agency does not offer. Although the revised definition allows exclusion of some individuals with handicaps from some programs, it requires that an individual with handicaps who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the nature of the program.

The commenter suggested that the fundamental alteration portion of this definition should reference §§ 1214.150(a) and 1214.160(d) which specifies the steps taken before a final determination is made as to whether the agency met the necessary burden of proof. The agency does not believe such a reference is appropriate in a definitional section.

The commenter argued that the agency's virtually exclusive reliance on *Davis* above: (1) Creates a rule which is inconsistent with the federally assisted regulation guideline; (2) allows consideration of criteria extraneous to the activity sought to be engaged in, especially as it relates to employment; (3) contradicts HEW's interpretation regarding employment regarding the requirement to be able to perform the essential functions of the job, because the phrase "level of accomplishment" is used; (4) ignores the title VI prohibition of using criteria or methods of administration which have the effect of subjecting individuals to discrimination; and (5) does not make it explicit in the rule that modifications of a program must occur if the purpose of the program can be achieved. The commenter also states that HEW has interpreted *Davis* to prohibit discrimination against persons with disabilities where such prohibition does not impose undue financial and administrative burdens, and that this must reflect the intent of Congress since it was not changed in the 1978 amendments.

The agency believes that *Davis*, a 1979 Supreme Court case, clarifies the meaning of "essential eligibility

requirements" with respect to programs in which an individual "is required to perform services or to achieve a level of accomplishment." In such a program, the Court held in *Davis*, an individual is not qualified if he or she cannot achieve the purpose of the program without modifications that would fundamentally alter its nature. The agency believes that it is appropriate to reflect this clarification in the regulation.

Further, paragraph (4) defines "qualified individual with handicaps" for purposes of employment, and incorporate EEOC's regulations at 29 CFR part 1613.702(f). § 1214.130 sets forth the general prohibitions against discrimination and § 1214.130(b)(3) specifically states the title VI prohibition of using criteria or methods of administration which have the effect of subjecting individuals to discrimination. The agency believes its placement of these standards is organizationally more appropriate.

The agency has the burden of demonstrating that a proposed modification would constitute a fundamental alteration in the nature of its program or activity. Furthermore, in demonstrating that a modification would result in such an alteration, the agency must follow the procedures established in §§ 1214.150(a) and 1214.160(d), which are discussed below, for demonstrating that an action would result in undue financial and administrative burdens. That is, the decision must be made by the agency head or his or her designee in writing after consideration of all resources available for the program or activity and must be accompanied by an explanation of the reasons for the decision. If the agency head determines that an action would result in a fundamental alteration, the agency must consider options that would enable the individual with handicaps to achieve the purpose of the program but would not result in such an alteration.

For programs or activities that do not fall under either of the first two paragraphs, paragraph (3) adopts the existing definition of "qualified handicapped person" with respect to services (28 CFR 41.32(b)) in the coordination regulation for programs receiving Federal financial assistance. Under this definition, a qualified individual with handicaps is an individual with handicaps who meets the essential eligibility requirements for participation in the program or activity.

Paragraph (4) explains that "qualified individual with handicaps" means "qualified handicapped person" as that term is defined for purposes of employment in the Equal Employment

Opportunity Commission's regulation at 29 CFR 163.702(f), which is made applicable to this part by § 1214.140. Nothing in this part changes existing regulations applicable to employment.

"Section 504." This definition makes clear that, as used in this regulation, "section 504" applies only to programs or activities conducted by the agency and not to programs or activities to which it provides Federal financial assistance.

#### Section 1214.110 Self-Evaluation.

The agency shall conduct a self evaluation of its compliance with section 504 within one year of the effective date of this regulation.

The self-evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.5(b)(2)). Experience has demonstrated the self-evaluation process to be valuable as a means of establishing a working relationship with individuals with handicaps that promotes both effective and efficient implementation of section 504.

The commenter recommended that ACTION consider including in this section: (1) An assurance to be submitted with the self-evaluation that will include, among other things, that the effects of the discriminatory policy will be eliminated; (2) a transition plan for compliance; (3) specific modification requirements for all disabilities including those with impaired vision or hearing; and (4) a list of interested persons consulted.

The agency believes no modification is needed. The section uses the same provision adopted by the Department of Justice in its final rule implementing section 504 for its federally conducted programs. 28 CFR part 39.110. The Department of Justice determined that this regulatory language was appropriate after it analyzed the Federal Advisory Committee Act (5 U.S.C. app.), Executive Order 12024, and 41 CFR part 101-6, the regulation of the General Services Administration implementing the Act.

The final rule provides that the agency shall provide an opportunity for interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the self-evaluation process and development of transition plans by submitting comments (both oral and written). § 1214.150(d) specifically sets forth the standards for transition plans.



**Section 1214.111 Notice.**

Section 1214.111 requires the agency to disseminate sufficient information to employees, applicants, participants, beneficiaries, and other interested persons to apprise them of the rights and protections afforded by section 504 and this regulation. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public to describe the agency's programs and activities; the display of informative posters in service centers and other public places; and the broadcast of information by television or radio.

The commenter felt that notification of agency policy regarding nondiscrimination should also be specifically distributed in recruitment materials as well as general information. Since recruitment of both volunteers and employees is a program or activity of the agency, the agency has not adopted this suggestion.

**Section 1214.130 General prohibitions against discrimination.**

Section 1214.130 is an adaption of the corresponding section of the section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.51).

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in § 1214.130 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. If the agency violates a provision in any of the subsequent sections, it will also violate one of the general prohibitions found in § 1214.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of individuals with handicaps. The agency may not refuse to provide an individual with handicaps with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons (e.g., epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical

condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question.

In addition, section 504 prohibits more than just the most obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Subparagraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit afforded to an individual with handicaps be as effective as that afforded to others. The later sections on program accessibility (§§ 1214.149-1214.151) and communications (§ 1214.160) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps, subparagraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate or different aids, benefits, or services when necessary to provide individuals with handicaps with an equal opportunity to participate in or benefit from the agency's programs or activities. Subparagraph (b)(1)(iv) requires that different or separate aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits, or services would be more effective, subparagraph (b)(2) provides that a qualified individual with handicaps still has the right to choose to participate in the program that is not designed to accommodate individuals with handicaps.

Subparagraph (b)(1)(v) prohibits the agency from denying a qualified individual with handicaps the opportunity to participate as a member of a planning or advisory board.

Subparagraph (b)(1)(vi) prohibits the agency from limiting a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

The commenter argued that subparagraph (b)(1) should include a prohibition to "aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit or service to beneficiaries of the recipient's program," because this provision is included in the Department of Justice's coordination regulations for federally

assisted programs (28 CFR part 41.51(b)(5)).

To the extent that assistance from the agency would provide significant support to an organization, it would constitute Federal financial assistance and the organization, as a recipient of such assistance, would be covered by the section 504 regulation for federally assisted programs. The regulatory "significant assistance" provision however, would be inappropriate in a regulation applying only to federally conducted programs or activities.

Subparagraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny individuals with handicaps access to the agency's programs or activities. The phrase "criteria or methods of administration" refers to official written agency policies and to the actual practices of the agency. This paragraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny individuals with handicaps an effective opportunity to participate.

Subparagraph (b)(4) specifically applies the prohibition enunciated in § 1214.130(b)(3) to the process of selecting sites for construction of new facilities or selecting facilities to be used by the agency. Subparagraph (b)(4) does not apply to construction of additional buildings at an existing site.

Subparagraph (b)(5) prohibits the agency, in the selection or procurement contractors, from using criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

Paragraph (c) provides that programs conducted pursuant to Federal statute or Executive Order that are designed to benefit only individuals with handicaps or a given class of individuals with handicaps may be limited to those individuals with handicaps.

Paragraph (d), discussed above, provides that the agency must administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps, i.e., in a setting that enables individuals with handicaps to interact with nonhandicapped persons to the fullest extent possible.

**Section 1214.140 Employment.**

Section 1214.140 prohibits discrimination on the basis of handicap in employment by the agency. Courts have held that section 504, as amended in 1978, covers the employment practices of Executive agencies. *Gardner v. Morris*, 75 F.2d 1271, 1277 (8th Cir. 1985); *Smith v. United States*



*Postal Service*, 742 F.2d 257, 259-260 (6th Cir. 1984); *Prewitt v. United States Postal Service*, 662 F.2d 292, 302-04 (5th Cir. 1981). *Contra McGuinness v. United States Postal Service*, 744 F.2d 1318, 1320-21 (7th Cir. 1984); *Boyd v. United States Postal Service*, 752, F.2d 410, 413-14 (9th Cir. 1985).

Courts uniformly have held that, in order to give effect to section 501 of the Rehabilitation Act, which covers Federal employment, the administrative procedures of section 501 must be followed in processing complaints of employment discrimination under section 504. *Morgan v. United States Postal Service*, 798 F.2d 1162, 1164-65 (8th Cir. 1986); *Smith*, 742 F.2d at 262; *Prewitt*, 662 F.2d at 304. Accordingly, § 1214.140 (Employment) of this rule adopts the definitions, requirements, and procedures of section 501 as established in regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR part 1613. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (3 CFR, 1978 Comp., p. 206). Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employment on the basis of handicap. In addition to this section, § 1214.70(b) specifies that the agency will use the existing EEOC procedures to resolve allegations of employment discrimination.

No comments were received on this section.

**Section 1214.149 Program accessibility: Discrimination prohibited.**

Section 1214.149 states the general nondiscrimination principle underlying the program accessibility requirements of §§ 1214.150 and 1214.151.

No comments were received on this section.

**Section 1214.150 Program accessibility: existing facilities.**

This regulation adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR part 41.57), with certain modifications. Thus, § 1214.150 requires that each agency program or activity, when viewed in its entirety, be readily accessible to and usable by individuals with handicaps. The regulation also makes clear that the agency is not required to make each of its existing facilities accessible (§ 1214.150(a)(1)). However, § 1214.150, unlike 28 CFR part 41.57, places explicit limits on the

agency's obligation to ensure program accessibility (§ 1214.150(a)(2)).

Subparagraph (a)(2) generally codifies recent case law that defines the scope of the agency's obligation to ensure program accessibility. This paragraph provides that, in meeting the program accessibility requirement, the agency is not required to take any action that would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. A similar limitation is provided in § 1214.160(d). This provision is based on the Supreme Court's holding in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the Court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. Since *Davis*, circuit courts have applied this limitation on a showing that only one of the two "undue burdens" would be created as a result of the modifications sought to be imposed under section 504. See, e.g., *Dopico v. Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association v. Lewis (APTA)*, 655 F.2d 1272 (DC Cir. 1981).

Subparagraph (a)(2) and paragraph 1214.160(d) are also supported by the Supreme Court's decision in *Alexander v. Choate*, 469 U.S. 287 (1985). *Alexander* involved a challenge to the State of Tennessee's reduction of inpatient hospital care coverage under Medicaid from 20 to 14 days per year. Plaintiffs argued that this reduction violated section 504 because it had an adverse impact on handicapped persons. The Court assumed without deciding that section 504 reaches at least some conduct that has an unjustifiable disparate impact on handicapped people, but held that the reduction was not "the sort of disparate impact" discrimination that might be prohibited by section 504 or its implementing regulation. *Id.* at 299.

Relying on *Davis*, the Court said that section 504 guarantees qualified handicapped persons "meaningful access to the benefits that the grantee offers," *id.* at 301, and that "reasonable adjustments in the meaningful access." *Id.* at n.21 (emphasis added). However, section 504 does not require "'changes', 'adjustments', or 'modifications' to existing programs that would be 'substantial' \* \* \* or that would constitute 'fundamental alteration(s) in the nature of a program.'" *Id.* at n.20 (citations omitted). *Alexander* supports the position, based on *Davis* and the

earlier, lower court decisions, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodations is not discriminatory. Thus, failure to include such an "undue burdens" provision could lead to judicial invalidation of the regulation or reversal of a particular enforcement action taken pursuant to the regulation.

This paragraph, however, does not establish an absolute defense; it does not relieve the agency of all obligations to individuals with handicaps. Although the agency is not required to take actions that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that individuals with handicaps receive the benefits and services of the federally conducted program or activity.

It is our view that compliance with § 1214.150(a) would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. The burden of proving that compliance with § 1214.150(a) would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee and must be accompanied by a written statement of the reasons for that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § 1214.170.

Paragraph (b) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the agency shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of individuals with handicaps. Structural changes in existing facilities are required only when there is no other



feasible way to make the agency's program accessible. It should be noted that "structural changes" include all physical changes to a facility; the term does not refer only to changes to structural features, such as removal of or alterations to a load-bearing structural member. The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR part 41.57(b), the agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three years after the effective date of this regulation. Where structural modifications are required, a transition plan shall be developed within six months of the effective date of this regulation. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days.

No comments were received on this section.

**Section 1214.151 Program accessibility: New construction and alterations.**

Overlapping coverage exists with respect to new construction and alterations under section 504 and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157). Section 1214.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of, the agency shall be designed, constructed, or altered to be readily accessible to and usable by individuals with handicaps in accordance with 41 CFR parts 101-19.600 to 101-19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157). We believe that it is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance here because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act and because adoption of this standard will avoid duplicative and possibly inconsistent standards.

Existing buildings leased by the agency after the effective date of this regulation are not required by the regulation to meet accessibility standards simply by virtue of being leased. They are subject, however, to the program accessibility standard for existing facilities in § 1214.150. To the extent the buildings are newly

constructed or altered, they must also meet the new construction and alteration requirements of § 1214.151.

The commenter suggests that the regulation should require that buildings leased after the effective date of the regulation should meet the new construction standards of § 1214.151, rather than the program accessibility standards for existing facilities in § 1214.150.

Federal practice under section 504 has always treated newly leased buildings subject to the existing facility program accessibility standard. Unlike the construction of new buildings where architectural barriers can be avoided at little or no cost, the application of new construction standards to an existing building being leased raises the same prospect of retrofitting buildings as the use of an existing Federal facility, and the agency believes the same program accessibility standard should apply to both owned and leased existing buildings.

In *Rose v. United States Postal Service*, 774 F.2d 1355 (9th Cir. 1985), the Ninth Circuit held that the Architectural Barriers Act requires accessibility at the time of lease. The *Rose* court did not address the issue of whether section 504 likewise requires accessibility as a condition of lease, and the case was remanded to the District Court for, among other things, consideration of that issue. The agency may provide more specific guidance on section 504 requirements for leased buildings after the litigation is completed.

**Section 1214.160 Communications.**

Section 1214.160 requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants, participants, and members of the public. These steps shall include procedures for determining when auxiliary aids are necessary under § 1214.160 (a)(1) to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, the agency's program or activity. They shall also include an opportunity for individuals with handicaps to request the auxiliary aids of their choice. This expressed choice shall be given primary consideration by the agency (§ 1214.160(a)(1)(i)). The agency shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § 1214.160(d). That paragraph limits the obligation of the agency to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it (see *supra* preamble

discussion of § 1214.150(a)(2)). Unless not required by § 1214.160(d), the agency shall provide auxiliary aids at no cost to the individual with handicaps.

The discussion of § 1214.150(a), Program Accessibility: Existing Facilities, regarding the determination of undue financial and administrative burdens also applies to this section and should be referred to for a complete understanding of the agency's obligation to comply with § 1214.160.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a person with impaired hearing. In many circumstances, however, they may not be, particularly when the information being communicated is complex or exchanged for a lengthy period of time (e.g., a meeting) or where the applicant or participant is not skilled in spoken or written language. In these cases, a sign language interpreter may be appropriate. For persons with impaired vision, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency intends to inform the public of: (1) The communications services it offers to afford individuals with handicaps and equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids if it can demonstrate that several different modes are effective.

The agency shall ensure effective communication with persons with impaired vision or hearing involved in hearings conducted by the agency. Auxiliary aids must be afforded where necessary to ensure effective communication at the proceedings. If sign language interpreters are necessary, the agency may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature (§ 1214.160(a)(1)(ii)). For example, the agency need not provide eye glasses or hearing aids to applicants or participants in its programs. Similarly, the regulation does not require the agency to provide wheelchairs to persons with mobility impairments.

Paragraph (b) requires the agency to provide information to individuals with handicaps concerning accessible services, activities, and facilities. Paragraph (c) requires the agency to provide a sign at inaccessible facilities



that directs users to locations with information about accessible facilities.

The commenter suggested that the definition of auxiliary aids should be expanded to include examples for people with physical impairments such as attendant services that may be needed to aid disabled persons to travel to meetings. The agency has not adopted the approach recommended by these comments.

To the extent that the services of an attendant are not directly related to a federally conducted program or activity, it would be inappropriate to require them at Federal expense. For example, the services of a sign language interpreter make a workshop as available to any deaf participant as it is to other participants. The need for services of interpreters arises directly out of the presentation of the information in a form that can be understood by hearing persons. However, the agency views the services of an attendant for a disabled person as generally personal in nature and not directly related to the federally conducted program.

A different conclusion, however, might be reached for Federal employees or other persons traveling for the agency. Where a disabled person who is unable to travel without an attendant is required to perform official travel, the travel expenses of an attendant, including per diem and transportation expenses, may be paid by ACTION. See 5 U.S.C. 3102(d).

The commenter argues that the term "auxiliary" implies something that is extra or discretionary, and encourages ACTION to change the term to "aids for reasonable accommodation." While the agency agrees the terms may imply something that is extra, the proposed change does not alleviate this implication. Therefore, the agency has not adopted this suggestion.

The commenter contends that reference to the *Davis* standard regarding undue burden is problematic. The agency has chosen to retain reference to this standard for the reasons stated regarding § 1214.150.

The commenter also says it should be recognized that all agency resources should be considered when determining whether or not an accommodation can be made, rather than just the funds attached with the program. The commenter contends the totality of the agency's budget should be the determining factor. However, this ignores the way ACTION's budget is appropriated by Congress, and therefore the agency has not adopted this suggestion.

#### *Section 1214.170 Compliance procedures.*

Paragraph (a) specifies that paragraphs (c) through (l) of this section establish the procedures for processing complaints other than employment complaints. Paragraph (b) provides that the agency will process employment complaints, in accordance with procedures established in existing regulations of the EEOC (29 CFR part 1613) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

The agency is required to accept and investigate all complete complaints for which it has jurisdiction (§ 1214.170(d)). If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to facilitate the referral of the complaint to any appropriate entity of the Federal government (§ 1214.170(e)).

Paragraph (f) requires the agency to notify the Architectural and Transportation Barriers Compliance Board (ATBCB) upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act was designed, constructed, or altered in a manner that does not provide ready access to and use by individuals with handicaps.

The commenter recommends providing for consultation with ATBCB to help resolve deficiencies rather than merely notifying the Board upon receipt of a complaint. This recommendation has not been incorporated since not all situations will require the Board's expert assistance.

The commenter also recommended inclusion of: (1) A provision for judicial review at the initial complaint level and not just at the appeal level; (2) a provision to ensure that all other regulations, forms and directives issued by ACTION are superceded by the nondiscrimination requirements of this regulation; (3) a provision for the availability of the Federal agency to award attorney fees in administrative proceedings; and (4) a provision for the availability of compensation to the prevailing party.

To the degree that these comments relate to employment, the agency has incorporated the regulations of EEOC in 29 CFR part 1613. Regarding nonemployment complaints, the 1978 amendments to section 504 failed to provide a specific statutory remedy for violations of section 504 in federally conducted programs. The amendment's legislative history suggesting parallelism between section 504 for federally conducted and federally assisted programs is unhelpful in this area

because the fund termination mechanism used in section 504 federally assisted regulations depends on the legal relationship between a Federal funding agency and the recipients to which the Federal funding is extended.

In addition, nothing contained in title V of the Rehabilitation Act provides for the agency award of attorneys fees in administrative proceedings other than those involving Federal employment. Nor does the Equal Access to Justice Act (5 U.S.C. 504) provide for such awards in hearings conducted in agency administrative proceedings. The agency has therefore not amended its regulations to include these provisions.

Paragraph (g) requires the agency provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal. (§ 1214.179(g)). One appeal within the agency shall be provided (§ 1214.170(i)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance.

Paragraph (l) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

#### **List of Subjects in 45 CFR Part 1214**

Blind, Civil Rights, Equal educational opportunity, Equal employment opportunity, Federal buildings and facilities, Handicapped.

Title 45, Chapter XII of the Code of Federal Regulations is amended by adding a new part 1214 to read as follows:

#### **PART 1214—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY ACTION**

Sec.	
1214.101	Purpose.
1214.102	Application.
1214.103	Definitions.
1214.104–1214.109	[Reserved]
1214.110	Self-evaluation.
1214.111	Notice.
1214.112–1214.129	[Reserved]
1214.130	General prohibitions against discrimination.
1214.131–1214.139	[Reserved]
1214.140	Employment.
1214.141–1214.148	[Reserved]
1214.149	Program accessibility: Discrimination prohibited.
1214.150	Program accessibility: Existing facilities.
1214.151	Program accessibility: New construction and alterations.



Sec.

1214.152-1214.159 [Reserved]

1214.160 Communications.

1214.161-1214.169 [Reserved]

1214.170 Compliance procedures.

Authority: 29 U.S.C. 794; 42 U.S.C. 5057.

**§ 1214.101 Purpose.**

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

**§ 1214.102 Application.**

This part applies to all programs or activities conducted by the agency, except for programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

**§ 1214.103 Definitions.**

For purposes of this part, the term—  
*Agency* means ACTION.

*Assistant Attorney General* means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

*Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

*Complete complaint* means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504 of the Act. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

*Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or

other conveyances, or other real or personal property.

*Individuals with handicaps* means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) *Physical or mental impairment* includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) *Major life activities* includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the agency as having such an impairment.

*Qualified individual with handicaps* means—

(1) With respect to preschool, elementary, or secondary education services provided by the agency, an individual with handicaps who is a member of a class of persons otherwise

entitled by statute, regulation, or agency policy to receive educational services from the agency;

(2) With respect to any other agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with handicaps who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature;

(3) With respect to any other program or activity, an individual with handicaps who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; and

(4) *Qualified handicapped person* as that term is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § 1214.140.

*Section 504 of the Act* means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 [29 U.S.C. 794]), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516, 88 Stat. 1617); the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602, 92 Stat. 2955); the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506, 100 Stat. 1810), and the Civil Rights Restoration Act of 1987 (Pub. L. 100-259, 102 Stat. 28). As used in this part, section 504 of the Act applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

**§§ 1214.104-1214.109 [Reserved]****§ 1214.110 Self-evaluation.**

(a) The agency shall, within one year of the effective date of this part, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The agency shall, for at least three years following completion of the self-evaluation, required under paragraph (a)



of this section, maintain on file and make available for public inspection—

- (1) A description of areas examined and any problems identified; and
- (2) A description of any modifications made.

#### § 1214.111 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the head of the agency finds necessary to apprise such persons of the protections against discrimination assured them by section 504 of the Act and this part.

#### §§ 1214.112–1214.129 [Reserved]

#### § 1214.130 General prohibitions against discrimination.

(a) No qualified individual with handicaps shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with handicaps an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with handicaps with aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to individuals with handicaps or to any class of individuals with handicaps than is provided to others unless such action is necessary to provide qualified individuals with handicaps with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified individual with handicaps the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified individual with handicaps in the enjoyment of any right, privilege,

advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified individual with handicaps the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would be to—

(i) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude individuals with handicaps from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to individuals with handicaps or the exclusion of a specific class of individuals with handicaps from a program limited by Federal statute or Executive order to a different class of individuals with handicaps is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

#### §§ 1214.131–1214.139 [Reserved]

#### § 1214.140 Employment.

No qualified individual with handicap, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in

29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

#### §§ 1214.141–1214.148 [Reserved]

#### § 1214.149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § 1214.150, no qualified individual with handicaps shall, because the agency's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

#### § 1214.150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by individuals with handicaps; or

(2) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 1214.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with handicaps receive the benefits and services of the program or activity.

(b) *Methods.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing



facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with handicaps. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified individuals with handicaps in the most integrated setting appropriate.

(c) *Time period for compliance.* The agency shall comply with the obligations established under this section within sixty days of the effective date of this part except that where structural changes in facilities are undertaken, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The agency shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to individuals with handicaps;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the agency official

responsible for implementation of the plan.

**§ 1214.151 Program accessibility: New construction and alterations.**

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151-4157), as established in 41 CFR 101-19.600 to 101-19.607, apply to buildings covered by this section.

**§§ 1214.152-1214.159 [Reserved]**

**§ 1214.160 Communications.**

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid will be provided, the agency shall give primary consideration to the requests of the individual with handicaps.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used to communicate with persons with impaired hearing.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide a sign at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be displayed at each primary entrance to each accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial

and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 1214.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

**§§ 1214.161-1214.169 [Reserved]**

**§ 1214.170 Compliance procedures.**

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs and activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) Responsibility for implementation and operation of this section shall be vested in the Director, Equal Opportunity Staff.

Dated: November 2, 1990.

Jane A. Kenny,  
Director.

[FR Doc. 90-26876 Filed 11-14-90; 8:45 am]

BILLING CODE 6050-28-M

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MM Docket No. 90-103; RM-7174]

**Radio Broadcasting Service; Mt. Pleasant, IA**

**AGENCY:** Federal Communications Commission.



**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of KILJ, Inc., substitutes Channel 288C3 for Channel 288A at Mt. Pleasant, Iowa, and modifies the license for Station KILJ to specify operation on the higher powered channel. See 55 FR 9930, March 16, 1990. Channel 288C3 can be allotted to Mt. Pleasant in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.8 kilometers (7.3 miles) southeast to avoid a short-spacing to Station KOKZ, Channel 289C, Waterloo, Iowa, and to the proposed allotments of Channel 288C3 at Chariton, Iowa, and Channel 291A at Washington, Iowa. The coordinates for Channel 288C3 at Mt. Pleasant are North Latitude 40-54-04 and West Longitude 91-26-21. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** December 24, 1990.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 90-103, adopted October 26, 1990, and released November 9, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

**PART 73—[AMENDED]**

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 288A and adding Channel 288C3 at Mt. Pleasant.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division,  
Mass Media Bureau.

[FR Doc. 90-26909 Filed 11-14-90; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 73**

[MM Docket No. 90-286; RM-7285]

**Radio Broadcasting Services;  
Woodward, OK**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Fuchs Communications, Inc., substitutes Channel 261C1 for Channel 228A at Woodward, Oklahoma, and modifies its license for Station KWFX to specify operation on the higher powered channel. See 55 FR 23108, June 6, 1990. Channel 261C1 can be allotted to Woodward in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.2 kilometers (7.6 miles) southwest of the community to accommodate petitioner's desired transmitter site. The coordinates for Channel 261C1 are North Latitude 36-20-40 and West Longitude 99-28-00. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** December 24, 1990.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 90-286, adopted October 29, 1990, and released November 9, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73:**

Radio broadcasting.

**PART 73—[AMENDED]**

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 228A and adding Channel 261C1 at Woodward.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division,  
Mass Media Bureau.

[FR Doc. 90-26910 Filed 11-14-90; 8:45 am]

BILLING CODE 6712-01-M

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety  
Administration****49 CFR Part 575**

[Docket No. 25; Notice 62]

RIN 2127-AB21

**Consumer Information Regulations;  
Uniform Tire Quality Grading  
Standards**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The Uniform Tire Quality Grading Standards (UTQGS) require that manufacturers and brand name owners of passenger car tires provide consumers with information about the relative performance of a tire in terms of treadwear, traction, and temperature resistance. This notice amends the treadwear grading procedures by adopting four proposals that are intended to reduce the variability of the test results and simplify the calculations related to treadwear grades. First, the rule requires the wheel alignment of a test vehicle to be set more precisely, based on the vehicle manufacturer's alignment specifications. Second, the rule amends the requirements related to tire rotation so that each tire in a test convoy is driven on each wheel position on each vehicle for the same distance. Third, the rule permits the use of a simplified treadwear grading method so that tire tread depth measurements may be taken twice rather than nine times. Fourth, the rule replaces the previous practice of assigning grades in 10-point intervals to reflect the differences in treadwear with a new practice of assigning grades in 20-point intervals.

**DATES:** *Effective date:* These amendments are effective 30 days after the publication of the final rule; except the amendment on the grading interval § 575.104(d)(2)(i) is effective one year after the publication of the final rule.

*Petitions for Reconsideration:* Any petitions for reconsideration of this rule must be received by NHTSA no later than December 17, 1990.

**ADDRESSES:** Any petition for reconsideration should refer to the



docket and notice number set forth in the heading of this notice and be submitted to: Administrator, NHTSA, 400 Seventh Street SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Nelson Gordy, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-4797.

**SUPPLEMENTARY INFORMATION:**

**I. Background Information**

Section 203 of the National Traffic and Motor Vehicle Safety Act ("Vehicle Safety Act") requires the Secretary of Transportation to prescribe a "uniform quality grading system for motor vehicle tires." As explained in that section, the purpose of this system is to "assist the consumer to make an informed choice in the purchase of motor vehicle tires." The agency has specified these requirements in the Uniform Tire Quality Grading Standards (UTGS) regulation (49 CFR 575.104), which requires that manufacturers or brand name owners of passenger car tires provide consumers with information about their tires' relative performance in terms of treadwear, traction, and temperature resistance.

The primary purpose of the treadwear grades is to aid consumers in the selection of new tires by informing them of the relative amount of expected tread life for each tire offered for sale. This allows the tire purchaser to compare passenger car tires based on tread life. Although these treadwear grades are not intended to be used to predict the actual mileage that a particular tire will achieve, they must be reasonably accurate to help consumers predict the relative tread life.

The treadwear grades are based on the test results of tires traveling 6,400 miles over a single, predetermined course on public roads near San Angelo, Texas. These grades represent a comparative rating of treadwear on tested tires. For example, a tire graded 180 would last one and a half times as long on the government course as a tire graded 120. The relative performance of tires, however, depends on the actual conditions of their use and may depart significantly from the norm due to variations in driving habits, service practices, and differences in road characteristics and climate.

Since the treadwear upon which the grades are based occurs under outdoor road conditions, any comparison between candidate tire performances must involve a standardization of results by correction for the particular

environmental conditions of each test. Accordingly, the treadwear performance of a candidate tire is measured by comparing its wear rate with that of a "course monitoring tire" (CMT) run in the same test conditions. The treadwear of the CMT reflects changes in course severity due to factors such as road surface wear and environmental conditions, and is used to adjust the measured treadwear of the candidate tire.

Under the current regulations, each test convoy consists of one rear-wheel-drive passenger car with four CMTs and up to three other rear-wheel-drive passenger cars with the candidate tires of the same construction type. 49 CFR 575.104(e)(1)-(2). Candidate tires on the same axle must be of the identical manufacturer and line, but front tires on a test vehicle may differ from rear tires as long as all four are of the same size designation. After a two circuit (800 mile) break-in period, the initial tread depth of each tire is determined by averaging the depth measures in each groove at six equally spaced points. After each 800 miles of the test, each tire's tread depth is measured again in the same manner, the tires are rotated on the car, the order of the cars in the convoy is changed, and the wheel alignments are readjusted if necessary to come within the ranges of the vehicle manufacturer's specifications. At the end of the 16-circuit test, each tire's overall wear rate is calculated from the tread depths measured after each interval by using the regression line technique in appendix C of § 575.104.

NHTSA has long been concerned with variability in the treadwear test results and grades. Less variability in treadwear test results will provide consumers with more precise information on relative tread life of different tires. To the extent that the variability in treadwear results is reduced, the treadwear grades calculated from them will provide consumers with more accurate information. Accordingly, the agency has examined possible means to reduce the variability of treadwear. These studies indicate that differences in treadwear are caused by variability in such factors as tire pressure, loading, wheel alignment and suspension, vehicle make and model, the impact of different driver characteristics, tire rotation, and environmental factors such as temperature, presence of moisture, and season.

**II. Notice of Proposed Rulemaking**

The agency issued a notice of proposed rulemaking on January 19, 1989 (54 FR 2167), which proposed four

methods that the agency tentatively concluded would make the treadwear grades more representative by reducing the variability or simplifying the calculations related to these grades. First, it proposed to require the wheel alignment of the test vehicle to be set at the midpoint of the permissible range specified by the manufacturer. Second, it proposed to amend the rotation provisions to require convoys to contain four cars so that each tire would be driven on each wheel position on each vehicle for the same distance throughout the convoy. Third, it proposed to simplify the treadwear grading method so that tire tread depth measurements would be taken only after the break-in period and at the conclusion of the test. Fourth, it proposed to replace the current practice of assigning grades in 10-point intervals to reflect differences in treadwear with a new practice of assigning grades in 20-point intervals. Each proposal will be discussed in detail later in the notice.

**Comments to NPRM**

In response to the NPRM, NHTSA received comments from the Rubber Manufacturers Association (RMA), the European Tyre and Rim Technical Organization (ETRTO), the Japanese Automobile Tire Manufacturers' Association (JATMA), and Standards Testing Laboratories (STL). The agency considered all the comments in developing this final rule and addresses the significant ones below. For the convenience of the readers, this rule uses the NPRM's organization and format.

**III. Amendments to the UTQGS Treadwear Requirements**

**A. Wheel Alignment Specifications**

The current UTQGS provisions require the evaluator to "adjust wheel alignment to that specified by the vehicle manufacturer" after the break-in period and after each 800 miles. (§ 575.104(e)(2)(iv)). Because manufacturers typically specify a permissible range for each alignment factor, this means, in practice, that wheel alignment factors such as toe-in, caster, and camber currently may vary by as much as 1/8 inch. [Toe-in is the degree to which the front wheels turn in so that their forward radii are closer together. Caster is the tilting of the steering axis either forward or backward from the vertical. Camber is the inward or outward tilting of the front wheels from the vertical.]

The NPRM proposed to require a test vehicle's wheel alignment for toe-in,



caster, and camber be set at the midpoint of the permissible range specified by the vehicle manufacturer. The agency tentatively concluded that a requirement that precisely specified wheel alignment would serve to reduce the variability of treadwear grades. This proposal was based on a 1983 study by the Southwest Research Institute which determined that a range of  $\frac{1}{8}$  inch between permissible wheel alignment settings resulted in a variance of as much as 14 percent in the average wear rate for three convoys. ("An Evaluation of the Effects of Load and Pressure on Tire Treadwear," SRI, Docket 00-25-GR-256, DOT HS-806 456, June 1983).

In its comment, RMA recommended that "realistic tolerances be established for each of the alignment settings." Similarly, STL stated that maintaining alignment at the midpoint of the permissible range would, at times, be impossible to achieve. Even if possible to achieve, it commented that such a requirement would raise costs unreasonably.

NHTSA notes that the purpose of the amendment is to reduce variability by prescribing exact alignment settings rather than a range. Thus, allowing a "tolerance," (i.e., a permissible range of variation) is contrary to the purpose of this amendment. Furthermore, based on NHTSA's actual experiences with wheel alignment, the agency believes that setting precise alignment settings, while difficult, is nonetheless feasible. Once wheel alignment is set, it can be checked and maintained throughout a convoy test. The current procedure requires wheel alignment to be adjusted at the beginning of the test and after each 800 miles. The amendment does not alter the number of alignments but does require greater precision. Even so, because it typically takes less than twenty minutes per car to measure and adjust wheel alignment, the increase in costs, if any, are minimal.

ETRTO commented that even though setting the test vehicle's wheel alignment at the midpoint of the manufacturer's specified range would reduce variability of tread wear grades, they believed that the vehicle manufacturer's procedures for setting wheel alignment must be followed.

In response the ETRTO's comment and after additional review of practices related to wheel alignment, NHTSA has decided to modify its proposal. The agency notes that vehicle manufacturers sometimes specify nominal settings that are not at the midpoint. For instance, Ford has specified the camber setting for its Crown Victoria to be at a nominal setting of  $-\frac{1}{2}$  inch with a minimum setting of  $-\frac{3}{4}$  inch and maximum

setting at  $+\frac{1}{4}$  inch. The agency believes that because a vehicle manufacturer is uniquely situated to prescribe the proper use of its vehicles, its procedures should be followed in setting wheel alignment. Thus, the agency is modifying the final rule to address those cases in which the vehicle manufacturer specifies a nominal setting that is not at the midpoint of the specified range. As amended, the requirements related to wheel alignment in § 575.104(e)(2) provide that the midpoint will be used, unless the manufacturer specifies another setting, in which case the manufacturer's setting will be used. As a practical matter, the agency notes that most testing organizations align wheel settings to the middle of the manufacturer's specifications, or to the nominal setting for caster, camber, and toe-in. Thus, this amendment will formalize current testing and enforcement practices and establish a uniform procedure for all contractors to follow.

#### *B. Tire Rotation Among Convoy Vehicles*

The current UTQGS provisions require that tires be rotated to each wheel position on a given passenger car in a test convoy. (§ 575.104(e)). However, tires are not required to be rotated to the other cars in a convoy.

NHTSA proposed amending the treadwear grading provisions to require that tires be rotated among the four passenger cars composing a test convoy. As proposed, each tire would occupy each of the four wheel positions on each of the four cars in a convoy for 400 miles. The agency believed that this proposal would help to eliminate variability in treadwear grades caused by tires being tested on different cars. The proposal was designed to reduce variability caused by driver and vehicle factors that affect the treadwear rates, because each tire would be exposed to the same factors at each wheel position on each car in the convoy. The NPRM cited a study which attributed a 30-percent difference between the highest and lowest treadwear rates to factors other than the qualities of the tires themselves. (see "Analysis of Course Monitoring Tires on Vehicles of Different Makes," NHTSA, Docket 00-25-GR-269, June 1988). Based on the study, NHTSA tentatively concluded that this proposal would significantly reduce the variability in treadwear grades resulting from the test car and driver factors.

Several commenters stated that the proposal would be infeasible and create hardships to the testing organizations. RMA stated that the large number of tire

and wheel sizes would make the proposal "impossible to achieve." ETRTO stated that the proposal would be restrictive because each vehicle in a convoy would have to be the same type to allow the wheels to be interchangeable. RMA and ETRTO also commented that the proposal would result in a great deal of expense because CMTs would be needed in virtually every size from 13 inch to 17 inch diameters. JATMA similarly believed that the proposal would result in restricting treadwear testing to a single tire size. STL and ETRTO were concerned that the proposal would result in significant cost increases but failed to provide cost data to support this claim. Like RMA, STL stated that the proposal would force testing companies to increase their fleet sizes to accommodate different four-car convoys for each tire size. STL was also concerned that it would be more difficult to get tires of a given test.

NHTSA disagrees with the commenters' concerns about the feasibility and the cost of the proposal to require tire rotation among cars in the test convoy. The agency believes that even though the amendment will require that each vehicle must be able to accommodate all of the tires within the convoy regardless of size, this requirement is necessary to reduce the effects of driver and vehicle variability. The agency does not believe it will be a significant hardship to the industry. The agency notes that manufacturers have established an industry practice in which they test 14-inch tires and apply the test results to grade both 14-inch and 15-inch tires. As a result, approximately 85 percent of the treadwear tests are conducted on 14-inch tires. As for the remaining 15 percent of tires, the agency acknowledges that evaluators will have to test 13-inch and 16-inch tires. However, the agency believes that the manufacturers can minimize the effects of this requirement through planning and coordination. As an option to running separate convoys for each tire size, it is possible to use versatile vehicles that can be equipped with tires of different sizes. The agency further notes that tires of a certain diameter but of differing tire widths could be part of a four-car convoy because such tires are interchangeable. Similarly, NHTSA does not foresee the amendment resulting in any significant changes in the number of cars in treadwear test convoys, since 89 percent of the convoys in 1988 were composed of four cars.

NHTSA anticipates only a minimal cost impact from the rotation of tires among cars in a treadwear test convoy.



The agency expects that the amendment will result in a marginal labor cost increase of approximately \$20 per vehicle, which represents only 0.7 percent of the current test cost of \$2,750 per vehicle. As for costs associated with the size of a testing organization's vehicle fleet, the agency acknowledges that the amendment may require a testing laboratory to acquire a greater variety of test vehicles for its overall fleet. However, the overall vehicle fleet size will be essentially the same because the miles per vehicle will be unchanged. Thus, the long-term impact of this amendment is to affect the mix of vehicle types and not the overall size of vehicle fleets.

Conversely, the agency anticipates several cost savings and other benefits as a result of this amendment. Most importantly, NHTSA believes that this amendment will further reduce variability by serving as an impetus for UTQGS testing organizations to standardize the type of vehicles selected for the majority of its convoys. It should also serve to reduce the number of convoys, increase the number of candidate tires to be tested by each convoy, and result in a cost savings since the ratio of CMTs to candidate tires will likely be smaller since four car test convoys will be the norm. In addition, the revision to the test procedures will allow radial CMTs to be used in all tests since the tires will be rotated among convoy vehicles in sets of four. Thus, there will be no problem with mixing tires of different construction types on any convoy vehicle. As a result, bias or bias-belted CMTs will no longer be needed.

In response to RMA's concern that some tire and wheel assemblies are so unique to a single vehicle (e.g., the Chevrolet Corvette, which specifies P275/40ZR17 front and P315ZR17 rear tires) as to preclude their use on any other vehicle, NHTSA notes that similar problems occur under the existing rotation requirements. For instance, the vehicle on which the Corvette's 17-inch tires were recently tested had to be modified, because of loading problems. Nevertheless, to reduce the potential hardships of testing tires used on unique vehicles, the agency has modified the final rule to permit two-car convoys along with four-car convoys. Thus, if tires used on unique vehicles need to be tested, only two rather than four cars will have to be modified or leased to test the tires used on such vehicles. The agency notes that tire rotation in a two-car convoy will still require each tire to be tested on each wheel position for the same distance. Therefore, the agency

expects that non-tire sources of variability will be similarly reduced in both two-car and four-car convoys.

NHTSA agrees with STL's comment that if different vehicle types are included within a convoy, vehicle weights may have to be adjusted when tires are rotated to a different type of vehicle. Nevertheless, the agency notes that such a situation poses similar problems under the current requirements, which permit candidate tires of different brands or tire lines to be on each axle. Thus, the only significant difference under the amendment will be that tire rotation will be to other vehicles rather than on one vehicle. In addition, as the agency explained above, any requirement that results in an increased standardization of vehicle types in a test convoy is beneficial because it helps to reduce variability.

RMA recommended that NHTSA run one radial CMT convoy each testing day to uniformly define environmental and road surface variations. Under this suggestion, candidate tires would be run in separate convoys of one to four vehicles. RMA stated that its suggestion would have the advantage of requiring only one size and type of CMT.

NHTSA notes that under both the present procedure and the proposal, four CMT tires must accompany the candidate tires in each convoy. This procedure serves to limit the effects of the non-tire sources of variability such as the driver, the test vehicle, and environmental factors. For instance, over the 6,400 mile course, variability caused by changes in weather and the time of day affect treadwear. Therefore, it is essential that the CMTs accompany each convoy to monitor the conditions uniquely affecting that particular convoy.

After reviewing the proposal in light of the comments, NHTSA continues to believe that requiring rotation of tires to each wheel position of each car in a test convoy will limit the effects of vehicle and driver variability. Along with the factors considered in the NPRM, the agency has determined that rotating tires among convoy cars reduces the coefficient of variation for treadwear to 3 percent from the 10 percent level experienced under the current requirement. Accordingly, the notice amends § 575.104(e) to require tires to be rotated among convoy vehicles so that each tire is at each wheel position in the test convoy for the same distance. As mentioned above, in response to RMA's concern about the testing of tires used with unique vehicles, the agency has modified the final rule to permit

convoys containing either two or four cars.

#### *C. Simplification of the Treadwear Grading Procedure*

NHTSA also proposed to simplify the grading procedures for measuring tread depth. Under the current procedure, the evaluator must measure tread depth nine times during the 6,400 mile test. Accordingly, an evaluator using a four-car convoy must make 4,320 measurements (the number of cars in a convoy (four) times the number of tires on each car (four) times the grooves on each tire (five) times equally spaced points on each groove (six) times the number of measurements due to tire rotation (nine)). After making these 4,320 measurements, the evaluator must calculate the measured treadwear rate by making a regression analysis of tread depth versus mileage.

NHTSA proposed amending the treadwear grading procedures to reduce the number of tread depth measurements from 9 to 2: after the break-in period and the end of the testing. The proposal would thus reduce the total measurements from the current 4,320 to 960 measurements.

The agency tentatively concluded that the proposal simplifying the method of measuring tread depth would provide sufficient data to determine treadwear for several reasons. First, since wear rates are essentially linear, only two points are needed to establish the slope of tread wear. Second, an agency study determined that treadwear grades obtained by the simplified two-point method were not significantly different from the nine-point method. ("Treadwear Grade Comparison Between Standard and Simplified Methods." NHTSA, Docket 00-25-GR-270, June 21, 1988). Third, it noted that the calculation of tires' treadwear rates would also be simplified because a simple arithmetical formula would be used to calculate treadwear rather than the currently required regression analysis.

RMA, ETRTO, JATMA, and STL opposed the proposal to change the treadwear measurements procedures. RMA claimed that the simplified grading method would result in increased variability. It further stated that recording intermediate measures provides a check against errors and treadwear anomalies. ETRTO objected to the simplified method, claiming that the grades obtained by the simplified grading method would differ significantly from the current grading procedure. JATMA also favored the



current grading practice because the regression analysis is "highly precise."

In response to RMA's specific criticism that variability would increase under the simplified grading method, the agency used both methods to calculate treadwear grades. These calculations indicated that the differences between the two methods were not statistically significant. In the few situations where grade calculations did differ, the differences were typically within the 10-point round off increment. Thus, the differences between the two grading methods would have little, if any, effect on the final grade determination.

In response to RMA's and JATMA's arguments supporting the need for intermediate measurements, the agency notes that its experience with the two-point method is that it accurately measures treadwear without the need for intermediate measurements. The agency wishes to emphasize that the simplified "two-point" grading method is in some respects a misnomer because each data point is actually the average of 30 measurements per tire (five grooves on a tire times six equally spaced points on a groove). Each of the 30 measurements per tire should be the same or only slightly different for that tire; if they differ significantly, the treadwear for that tire will be remeasured. In addition, under the simplified grading measure, the evaluator is still required to inspect for treadwear anomalies when the tires are rotated. Similarly, the tire is immediately inspected if a vehicle experiences an event which may adversely affect treadwear such as hitting an obstacle or hard braking. Thus, even without intermediate measurements, the simplified procedure will still allow for detection of any significant treadwear anomalies.

NHTSA disagrees with ETRTO's comment that "valuable technical data" will be lost if the simplified two-point method is substituted for the nine-point method. While intermediate measurements may provide some information about the trend the treadwear is taking, the agency does not believe that this information is of sufficient importance to warrant requiring the intermediate measurements. The agency further notes that a tire manufacturer or test facility can take the intermediate measurements, if it finds such information worthwhile.

ETRTO stated that because treadwear is non-linear, the grades obtained by the simplified method will differ significantly from the current procedure. The agency agrees that while treadwear is not perfectly linear for radial tires, the

differences in terms of assigning treadwear grades will not be significant. In the agency's view, the critical issue is not whether treadwear is perfectly linear but whether the two methods yield approximately the same grades for radial tires. The agency study cited earlier found that the treadwear grades for radial tires by either the simplified two-point method or the present method are not significantly different. In view of this finding, the agency has determined that the simplified treadwear grading procedure serves as a reasonable measure of radial tire treadwear.

JATMA and STL commented that the regression analysis would be a more precise way to approximate a linear function than the two-point arithmetical formula. NHTSA disagrees with this contention based on its study comparing the two methods. The agency conducted an evaluation of treadwear testing at the San Angelo test center which showed tread life to be linear for the initial readings of radial tires. However, as the mileage increased, treadwear for radial tires became nonlinear and in fact wear rate decreased. See: "Uniform Tire Quality Grading Course Monitoring," Southwest Research Institute, DOT Institute, DOT-HS 802-526. Because treadwear is not perfectly linear for radial tires, an increase in the number of data points will not improve the precision of the estimated slope for wear. In fact, because the treadwear rate decreases with mileage, the slope based on the two end points is a better projection of the overall tread life for a radial tire than the current method.

After reviewing the comments, NHTSA has decided to permit but not require the simplified treadwear grading method. The agency continues to believe that the simplified grading method will provide representative treadwear grades, while simplifying the test procedures, reducing costs, and reducing the complexity of the calculations. Nevertheless, given that the industry prefers the existing more burdensome grading method, that the proposal was offered as a replacement that is comparable to but not superior to the existing test, and that the agency is aware of no compelling reason to eliminate the more complex procedure, the agency has decided to permit evaluators to rely on it as an alternative. Consequently, § 575.104(e)(2)(ix) permits both the present procedure and the simplified procedure. The manufacturer will be required to identify the method used when the tire grade data are submitted to the agency for compliance verification.

#### *D. Increase Treadwear Grade Interval From 10 to 20 Points*

In determining the treadwear grade to be assigned to a tire, the evaluator currently expresses the projected mileage for a candidate tire as a percentage of 30,000 miles, rounded off to the next lowest 10 percentage points (§ 575.104(e)(ix)(F)). For example, a tire with a projected mileage of 21,000 miles would be graded 70, as would a tire with a projected mileage of 23,000 miles. A tire with a projected mileage of 24,000 miles would be graded 80. Under this 10-point scale, each single grade level interval (i.e., 80 vs. 70) represents a difference of 3,000 miles in projected tread life on the test course.

As explained in the NPRM, the 10-unit scale was designed when most tires were of bias or bias-belted construction. Tires of those constructions generally have projected mileages between 20,000 and 40,000 miles; thus the 3,000 mile difference in projected tread life for each grade interval represents between 7.5 and 15 percent of a tire's projected tread life. In earlier rulemakings, NHTSA determined that this was the proper percentage difference for treadwear grades. In contrast, radial tires, which now comprise approximately 91 percent of the new passenger car tire market, usually have projected treadlife of approximately 60,000 miles; thus the 3,000 mile difference in projected tread life for each grade interval represents approximately 5 percent of a radial tire's projected tread life. Based on these considerations, the agency proposed to increase treadwear grades to 20-point intervals.

The agency proposed that, if adopted, this amendment of the treadwear grade interval would become effective one year after publication of the final rule. (The three other proposals would become effective 30 days after publication of the final rule.) The agency proposed this longer leadtime because it believed that tire manufacturers would need more than 30 days to recompute the grades of some of their existing tire lines, print new labels and brochures with the changed grades, and change their molds to show the changed grades on the sidewall of those tires.

RMA and ETRTO commented that the proposal to increase the grade interval to 20 points would provide no benefit to consumers but would result in significant costs to the tire manufacturers. RMA estimated that the cost of mold reworking and relabeling for treadwear grades of 90, 110, 130 etc. would exceed \$2 million. JATMA and



ETRTO noted that if the agency adopted the proposal for radial tires, it still should continue to use the 10-point interval for bias and bias belted tires. Alternatively, RMA suggested that radial tires should have a 10-point increment up to a grade of 300 and 20 points above 300.

After reviewing the comments, the agency has decided to adopt the 20-point interval, as proposed. Since the passenger car tire market is now comprised predominantly of radial tires whose treadwear grades typically run above 200, with many approaching 300, the 10-point interval has become less relevant to a consumer's buying decision. For instance, it would be unlikely for a consumer to view the difference between a 290 tire and a 280 tire as significant. In addition, the normal variation of treadlife inherent among tires with given tire lines means that the 10-point interval, which represents intervals of only 5 percent, might convey information that was not useful and even misleading to consumers. Given the agency's goal of having a treadwear scale that allows for reasonable comparisons among tire lines, without unduly emphasizing the precision of the measurement, the agency has decided to adopt the 20-point treadwear grade interval.

The agency also disagrees that the amendment to increase the grade interval to 20 points will significantly increase costs. First, 68 percent of tire lines currently correspond to the proposed 20-point interval (200, 220, 240 etc.). Thus, only the remaining 32 percent of the tire lines need to have the treadwear grade reassigned. Even these tire lines need not be retested, since a manufacturer may lower a grade (e.g., from 210 to 200). Moreover, the one year leadtime should further reduce the cost impact given that molds are typically refurbished each year, labels are typically exhausted within six months to one year, and brochures are updated and distributed to dealers on an annual basis.

NHTSA has decided to reject the suggestion that the treadwear grade interval remain at 10-point intervals for bias and bias-belted tires. As noted above, such tires are currently a very small segment of the total passenger car tire market. In the last few years, only two bias-belted tire convoys and one bias-ply convoy have been run at the San Angelo UTQGS test course. Thus, a separate grade interval for non-radial tires is not needed and would be contrary to the agency's goal to standardize treadwear grading procedures. To effectuate such

standardization of treadwear grades, the agency must select a single grade interval. Because the vast majority of passenger car tires are and will increasingly be of radial construction, the agency has decided to replace the 10-point interval with the 20-point interval.

NHTSA is also rejecting RMA's suggestion to have a 10-point scale until a treadwear grade of 300 and then a 20-point scale over 300. The agency believes that such a dual scale would unnecessarily complicate treadwear grading without providing any significant benefit. Based on the above considerations, the agency has determined that the 20-point scale should apply to all treadwear grades, not just to grades above 300.

In response to RMA's comment that existing radial tires graded prior to the effective date need not be reggraded thus precluding the need to remark thousands of tire molds, the agency notes that the rule will not require tires with treadwear grades molded before the effective date to be remolded. Nevertheless, given § 575.104(d)(1)'s molding and labeling requirements in relation to § 575.104(d)(2)(i)'s new requirement that "treadwear grades shall be in multiples of 20. (e.g., 80, 120, 160)," the rule will require the treadwear grade to be remolded and relabeled when the one year leadtime expires (see also the grading requirement in § 575.104(e)(2)(ix)(F)). This leadtime should be adequate to exhaust existing inventories. As for reggrading, a manufacturer can avoid hardship by merely grading the tire to the next lower 20-point interval (e.g., a tire with a raw grade of "131" would be assigned a treadwear grade of "120" rather than "130.") Of course, if the manufacturer retests such tires and wishes to change the grade, the 20-point interval will apply.

#### *Miscellaneous Considerations:*

RMA suggested that the agency should consider alternative test vehicles to include light trucks and front-wheel-drive vehicles. STL also commented that front-wheel-drive vehicles and pickup trucks should be used as test vehicles. The agency notes that whether to use non-passenger cars or front-wheel-drive cars is beyond the scope of the rulemaking.

STL stated that specific instructions would be helpful on those tires which have directional tread designs. The agency notes that unusual tire features, such as directional tread design, are generally accommodated by making appropriate modifications in the test procedures. For example, tire depth

measurements are taken at more points around the tire for those with two or three grooves. For directional tires, rotation could be limited to one side or the tire could be remounted on the rim when rotated to the other side of the vehicle.

#### *Economic and Other Impacts*

NHTSA has analyzed this rule and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The agency believes that a full regulatory evaluation is not required because the rule will have only minimal economic impacts. The agency believes that there will be no significant additional costs related to the first amendment because it merely entails changes to the current testing procedures. Although the second amendment will result in additional labor costs and initial costs related to obtaining CMTs, these costs are minimal and may be offset by the savings resulting from the third amendment. As for tire rotation, the test procedure had required tires be rotated after the first 400 miles, at the completion of break-in (300 miles), and seven times thereafter in 800-mile increments, or a total of nine times during the 6,400 mile test. Under the second amendment, tires will be rotated 17 times, thus adding to the time and cost of testing. Specifically, 16 tires will be removed from the four vehicles in the convoy and rotated to different wheel or vehicle positions every 400 miles, after break-in. According to agency staff in San Angelo, this operation generally takes two people approximately 30 minutes to complete, or one labor-hour per convoy. Thus, this amendment will result in eight additional labor-hours per four vehicle test convoy. The number of convoys (each composed of four vehicles) which completed treadwear testing at San Angelo was 200 in 1986 and 174 in 1987. Accordingly, based on a two-year average from 1986 and 1987 (187 convoys), the amendment requiring eight additional tire rotations will add 1,496 labor hours to the test. Assuming a labor and overhead rate of \$10 per hour for tire changes, the increased cost will be \$14,960 per year.

As for the third amendment permitting a simplified treadwear grading method, the treadwear grading method had required tread-depth measurements for each tire at nine intervals during a test sequence. With this method, two people took approximately two hours to measure and record tread depth at each



interval. However, under the simplified grading procedure, an evaluator need only measure and record two intervals per test sequence per convoy. This amendment thus permits seven fewer intervals, resulting in 28 fewer labor hours per convoy (seven intervals x two workers x two hours). Based on the two year average of 187 convoys, this amendment has the potential of resulting in an annual savings of 5,236 labor hours. Assuming a labor rate of \$10 per hour, permitting the simplified grading method has the potential to save \$52,360. Assuming evaluators adopt this simplified grading method, the savings from this amendment will offset the \$14,960 additional cost from the second amendment requiring tire rotation among convoy vehicles.

The agency notes that the one-year leadtime for the fourth amendment to change the grade interval will ensure that there are no additional printing or similar costs.

The agency has also reviewed this rule in accordance with the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant impact on a substantial number of small entities. The parties affected by these changes are tire manufacturers and brand name owners. Few, if any, of the tire manufacturers are small entities, but some of the brand name owners may qualify as small entities. However, the economic impacts of these amendments will be minimal, as described above. Hence, any impacts on brand name owners and tire manufacturers will not be significant. Small organizations and small governmental entities may be affected by these amendments, as purchasers of new tires. Again, however, any economic impacts on these small entities will not be substantial.

The agency has also reviewed the rule under the National Environmental Policy Act and determined that it will not have a significant effect on the human environment.

The rule has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that it does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

As noted in the NPRM, the Office of Management and Budget (OMB) has already approved NHTSA's requirements that treadwear grades be disseminated by being molded on the sidewall of tires, by paper labels, and by brochures, based on the current testing procedures. This rule simplifies the existing testing procedures and changes the grade interval used when

disseminating this information; however, the rule does not change the collection and information requirements previously approved by OMB pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The approval number is OMB # 2127-0519, and the approval is valid through April 30, 1992.

#### List of subjects in 49 CFR part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

### PART 575—CONSUMER INFORMATION REGULATIONS

In consideration of the foregoing, 49 CFR Part 575 is amended as follows:

1. The authority citation for Part 575 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1407, 1421, 1423; delegation of authority at 49 CFR 1.50.

#### § 575.104 [Amended]

2. Section 575.104(d)(2)(i) is revised to read as follows:

(d) \* \* \*

(2) *Performance*—(i) *Treadwear*. Each tire shall be graded for treadwear performance with the word "Treadwear" followed by a number of two or three digits representing the tire's grade for treadwear, expressed as a percentage of the NHTSA nominal treadwear value, when tested in accordance with the conditions and procedures specified in paragraph (e) of this section. Treadwear grades shall be in multiples of 20. (e.g., 80, 120, 160).

3. Section 575.104(e) is revised to read as follows:

(e) *Treadwear grading conditions and procedures*—(1) *Conditions*. (i) Tire treadwear performance is evaluated on a specific roadway course approximately 400 miles in length, which is established by the NHTSA both for its own compliance testing and for that of regulated persons. The course is designed to produce treadwear rates that are generally representative of those encountered by tires in public use. The course and driving procedures are described in appendix A of this section.

(ii) Treadwear grades are evaluated by first measuring the performance of a candidate tire on the government test course, and then correcting the projected mileage obtained to account for environmental variations on the basis of the performance of the course monitoring tires run in the same convoy. The course monitoring tires are made available by the NHTSA at Goodfellow

Air Force Base, San Angelo, Tex., for purchase by any persons conducting tests at the test course.

(iii) In convoy tests, each vehicle in the same convoy, except for the lead vehicle, is throughout the test within human eye range of the vehicle immediately ahead of it.

(iv) A test convoy consists of two or four passenger cars, each having only rear-wheel drive.

(v) On each convoy vehicle, all tires are mounted on identical rims of design or measuring rim width specified for tires of that size in accordance with 49 CFR 571.109, S4.4.1(a) or (b), or a rim having a width within  $-0$  to  $+0.50$  inches of the width listed.

(2) *Treadwear grading procedure*. (i) Equip a convoy as follows: Place four course monitoring tires on one vehicle. Place four candidate tires with identical size designations on each other vehicle in the convoy. On each axle, place tires that are identical with respect to manufacturer and line.

(ii) Inflate each candidate and each course monitoring tire to the applicable pressure specified in table 1 of this section.

(iii) Load each vehicle so that the load on each course monitoring and candidate tire is 85 percent of the test load specified in § 575.104(h).

(iv) Adjust wheel alignment to the midpoint of the vehicle manufacturer's specifications, unless adjustment to the midpoint is not recommended by the manufacturer; in that case, adjust the alignment to the manufacturer's recommended setting.

(v) Subject candidate and course monitoring tires to "break-in" by running the tires in the convoy for two circuits of the test roadway (800 miles). At the end of the first circuit, rotate each vehicle's tires by moving each front tire to the same side of the rear axle and each rear tire to the opposite side of the front axle. Visually inspect each tire for any indication of abnormal wear, tread separation bulging of the sidewall, or any sign of tire failure. Void the grading results from any tire with any of these anomalies, and replace the tire.

(vi) After break-in, allow the air pressure in the tires to fall to the applicable pressure specified in table 1 of this section or for 2 hours, whichever occurs first. Measure, to the nearest 0.001 inch, the tread depth of each candidate and each course monitoring tire, avoiding treadwear indicators, at six equally spaced points in each groove. For each tire compute the average of the measurements. Do not measure those shoulder grooves which



are not provided with treadwear indicators.

(vii) Adjust wheel alignment to the midpoint of the manufacturer's specifications, unless adjustment to the midpoint is not recommended by the manufacturer; in that case, adjust the alignment according to the manufacturer's recommended setting.

(viii) Drive the convoy on the test roadway for 6,400 miles.

(A) After each 400 miles, rotate each vehicle's tires by moving each front tire to the same side of the rear axle and each rear tire to the opposite side of the front axle. Visually inspect each tire for treadwear anomalies.

(B) After each 800 miles, rotate the vehicles in the convoy by moving the last vehicle to the lead position. Do not rotate driver positions within the convoy. In four-car convoys, vehicle one shall become vehicle two, vehicle two shall become vehicle three, vehicle three shall become vehicle four, and vehicle four shall become vehicle one.

(C) After each 800 miles, if necessary, adjust wheel alignment to the midpoint of the vehicle manufacturer's specification, unless adjustment to the midpoint is not recommended by the manufacturer; in that case, adjust the alignment to the manufacturer's recommended setting.

(D) After each 800 miles, if determining the projected mileage by the 9-point method set forth in paragraph (e)(2)(ix)(A)(1) of this section, measure the average tread depth of each tire following the procedure set forth in paragraph (e)(2)(vi) of this section.

(E) After each 1,600 miles, move the complete set of four tires to the following vehicle. Move the tires on the last vehicle to the lead vehicle. In moving the tires, rotate them as set forth in paragraph (e)(2)(viii)(A) of this section.

(F) At the end of the test, measure the tread depth of each tire pursuant to the procedure set forth in paragraph (e)(2)(vi) of this section.

(ix)(A) Determine the projected mileage for each candidate tire either by the nine-point method of least squares

set forth in paragraph (e)(2)(ix)(A)(1) of this section and appendix C to this section, or by the two-point arithmetical method set forth in paragraph (e)(2)(ix)(A)(2) of this section. Notify NHTSA about which of the alternative grading methods is being used.

(1) *Nine-Point Method of Least Squares.* For each course monitoring and candidate tire in the convoy, using the average tread depth measurements obtained in accordance with paragraphs (e)(2)(vi) and (e)(2)(viii)(D) of this section and the corresponding mileages as data points, apply the method of least squares as described in appendix C to this section to determine the estimated regression line of  $y$  on  $x$  given by the following formula:

$$y = a + \frac{bx}{1000}$$

Where:

$y$  = average tread depth in mils

$x$  = miles after break-in.

$a$  =  $y$  intercept of regression line (reference tread depth) in mils, calculated using the method of least squares; and

$b$  = the slope of the regression line in mils of tread depth per 1,000 miles, calculated using the method of least squares. This slope will be negative in value. The tire's wear rate is defined as the absolute value of the slope of the regression line.

#### (2) *Two-Point Arithmetical Method.*

For each course monitoring and candidate tire in the convoy, using the average tread depth measurements obtained in accordance with paragraph (e)(2)(vi) and (e)(2)(viii)(F) of this section and the corresponding mileages as data points, determine the slope ( $m$ ) of the tire's wear in mils of tread depth per 1,000 miles by the following formula:

$$m = 1000 \frac{(Y_1 - T_0)}{(X_1 - X_0)}$$

Where:

$Y_0$  = average tread depth after break-in, mils

$X_1$  = average tread depth at 6,400 miles, mils

$X_0$  = 0 miles (after break-in).

$X_1$  = 6,400 miles of travel

This slope ( $m$ ) will be negative in value. The tire's wear rate is defined as the slope ( $m$ ) expressed in mils per 1000 miles.

(B) Average the wear rates of the four course monitoring tires as determined in accordance with paragraph (e)(2)(ix)(A) of this section.

(C) Determine the course severity adjustment factor by dividing the base wear rate for the course monitoring tires (see note below) by the average wear rate for the four course monitoring tires.

**Note:** The base wear rates for the course monitoring tires will be furnished to the purchaser at the time of purchase.

(D) Determine the adjusted wear rate for each candidate tire by multiplying its wear rate determined in accordance with paragraph (e)(2)(ix)(A) of this section by the course severity adjustment factor determined in accordance with paragraph (e)(2)(ix)(C) of this section.

(E) Determine the projected mileage for each candidate tire by applying the appropriate formula set forth below:

(1) If the projected mileage is calculated pursuant to paragraph (e)(2)(ix)(A)(1) of this section, then:

$$\text{Projected mileage} = \frac{1000(a - 62)}{b^1} + 800$$

Where:

$a$  =  $y$  intercept of regression line (reference tread depth) for the candidate tire as determined in accordance with paragraph (e)(2)(ix)(A)(1) of this section.

$b^1$  = the adjusted wear rate for the candidate tire as determined in accordance with paragraph (e)(2)(ix)(D) of this section.

(2) If the projected mileage is calculated pursuant to (e)(2)(ix)(a)(2) of this section, then:

$$\text{Projected mileage} = \frac{-1000(Y_0 - 62)}{mc} + 800$$



## Where:

Yo = average tread depth after break-in, mils  
mc = the adjusted wear rate for the candidate tires as determined in accordance with paragraph (e)(2)(ix)(D) of this section.

(F) Compute the percentage (P) of the NHTSA nominal treadwear value for each candidate tire using the following formula:

$$P = \frac{\text{Projected mileage}}{30,000} \times 100$$

Round off the percentage to the nearest lower 20-point increment.

Issued on: November 9, 1990.

Jerry Ralph Curry,  
Administrator.

[FR Doc. 90-26962 Filed 11-14-90; 8:45 am]

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 674

[Docket No. 900777-0273]

RIN 0648-AC00

## High Seas Salmon Fishery off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

**SUMMARY:** NOAA issues a final rule to implement Amendment 3 to the Fishery Management Plan for the High Seas Salmon Fisheries off the Coast of Alaska East of 175 Degrees East Longitude (FMP). Amendment 3 revises the FMP to: (1) Incorporate recent scientific data on the salmon stocks and information on the salmon harvests by the troll fishery, (2) correct existing errors, (3) provide for the annual harvest levels (optimum yields (OYs)) to be established by the Pacific Salmon Commission under provisions of the Pacific Salmon Treaty, (4) defer regulation of the salmon fisheries in the Exclusive Economic Zone (EEZ) to the State of Alaska to be regulated consistent with the FMP and applicable Federal law, (5) make the FMP consistent with recent provisions of the Magnuson Fishery Conservation and Management Act (Magnuson Act) requiring consideration of vessel safety issues and fish habitat, and (6) provide for extending the jurisdiction of the FMP over the EEZ west of 175 degrees east longitude should the International Convention for the High Seas Fisheries

of the North Pacific Ocean (International Convention) be terminated and not be replaced by an equivalent international agreement to which the United States is a party. Amendment 3 is intended to improve regulation of the salmon fisheries in Alaska's waters and in the EEZ off the coast of Alaska. It should reduce duplicative State and Federal fishery management efforts, maintain Council oversight of the fishery in the EEZ while eliminating Federal involvement in routine fishery management actions, and streamline the regulatory procedures for setting season measures and making inseason management adjustments.

**EFFECTIVE DATE:** December 10, 1990.

**ADDRESSES:** Individual copies of Amendment 3 and the Environmental Assessment and Regulatory Impact Review may be obtained from the North Pacific Fishery Management Council, P.O. box 103136, Anchorage, Alaska 99510 (telephone: 907-271-2809). Individual copies of the Federalism Assessment or the Environmental Assessment may be obtained from Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. box 21668, Juneau, Alaska 99802-1668 (telephone: 907-586-7228).

**FOR FURTHER INFORMATION CONTACT:** Aven M. Andersen (Fishery Management Biologist, NMFS, Alaska Region, Juneau, Alaska (telephone: 907-586-7228).

**SUPPLEMENTARY INFORMATION:****Background**

Salmon fishing in the EEZ off Alaska is managed under the FMP that was prepared by the North Pacific Fishery Management Council (Council) and approved and implemented by the Secretary of Commerce in 1979. Implementing regulations appear at 50 CFR part 674.

The Council adopted Amendment 3 for submission to the Secretary of Commerce (Secretary) under section 304(b) of the Magnuson Act. The receipt date for Secretarial review of this amendment was June 3, 1990. The Magnuson Act requires the Secretary, or his designee, to approve, disapprove, or partially disapprove fishery management plans or plan amendments before the close of the 95th day following receipt. Following receipt of Amendment 3, the Secretary immediately commenced a review to determine whether it was consistent with the provisions of the Magnuson Act and any other applicable law. A Notice of Availability of the amendment was published in the *Federal Register* (55 FR 23454, June 8, 1990; corrected 55 FR

28789, July 13, 1990). It invited review of, and comment on, the amendment until August 2, 1990. A proposed rule was filed with the Office of the *Federal Register* on July 6, 1990, and published on July 12, 1990 (55 FR 28661). It invited comments until August 20, 1990. No public comments on Amendment 3 or on the proposed rule were received.

The preamble to the proposed rule described and presented the reasons for each measure contained in the amendment. The Regional Director, Alaska Region, NMFS (Regional Director) reviewed each measure and the reasons for it. He determined that each measure is consistent with the Magnuson Act and other applicable law. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), concurred on September 6, 1990.

The following is a summary from the proposed rule of what each measure requires or accomplishes:

Amendment 3 renames the FMP as the "Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska." It reorganizes and shortens the FMP, incorporates recent scientific data on the salmon stocks and statistics on the salmon harvests by the troll fishery in recent years, and corrects existing FMP errors. Amendment 3 provides for the OYs to be set by the Pacific Salmon Commission under procedures established by the Pacific Salmon Treaty. Further, it defers regulation of the salmon fisheries in the EEZ to the State of Alaska to be regulated consistent with the FMP and applicable Federal law, including Federal law implementing applicable treaties. Alaska's regulations will then apply to all fishing vessels registered under the laws of the State whether they are fishing in State waters or in the EEZ. Amendment 3 discusses fish habitat issues and vessel safety concerns and identifies ongoing and future Council actions to address these matters; it does not contain specific management measures implemented by regulations regarding these concerns. Finally, Amendment 3 provides for extending the jurisdiction of the FMP over salmon in the EEZ west of 175 degrees east longitude should the International Convention be terminated and not be replaced by an equivalent international organization to which the United States is a party.

Amendment 3 retains the previous ban on salmon fishing with nets in both the "East Area" and "West Area," retains the ban on commercial salmon fishing in the West Area, allows commercial handtroll and power-troll



salmon fishing in the East Area, and allows sport fishing in both Areas.

Finally, Amendment 3 provides that the Secretary of Commerce may review the applicability of a State statute or regulation to the EEZ. Any member of the public may obtain that review by properly appealing any State statute or any regulation (i.e., any perennial, annual, or inseason regulation) issued by the State for the salmon fisheries in the EEZ off the Coast of Alaska. Such public appeals of State statutes and perennial or annual regulations would be directed first to the State and, if unsuccessful, then to the Secretary. Public appeal to the State is not required in advance of an appeal to the Secretary for an inseason rule, but simultaneous pursuit of State and Secretarial review is expressly endorsed by Amendment 3. Secretarial review of all public appeals is limited by Amendment 3 to the issue of whether the challenged State statute or regulation is consistent with the FMP, the Magnuson Act, and other applicable Federal law, including Federal law implementing applicable treaties (the applicable criteria). The Secretary is constrained from responding to public comments that merely object to a State statute or regulation or simply indicate that an alternative State statute or regulation would provide for better management of the salmon fishery. The appellant must tie the objection to the applicable criteria for Secretarial review. This limitation on Secretarial review of State regulations will allow the Secretary to disregard frivolous comments and should encourage persons with serious concerns to participate fully in the State regulatory procedures before seeking Secretarial intervention.

Initial public appeals to the State are to follow procedures of the Alaska Administrative Procedure Act, which are outlined in Amendment 3. These State procedures provide for the Council, National Marine Fisheries Service, and NOAA's Office of General Counsel to submit comments to the State concerning the extent to which the appealed State regulation falls within the scope of the FMP, the Magnuson Act, and other applicable Federal law.

If, in response to a public appeal or as a result of routine review of the State's salmon regulations and statutes by NMFS, the Secretary makes a preliminary determination that a State statute or perennial or annual regulation is inconsistent with the applicable criteria, the Secretary will: (1) Publish a proposed rule for salmon fisheries in the EEZ in the *Federal Register* that is consistent with the applicable criteria,

and request comments for 30 days, (2) provide notice of the rule to the Council and the Commissioner of the Alaska Department of Fish and Game, and (3) hold an informal public hearing if requested by the State. After reviewing all public and State comments, the Secretary will decide whether or not the State regulation or statute appealed or found questionable is consistent with the applicable criteria. Depending upon his decision, the Secretary will either publish a notice withdrawing his proposed Federal rule or promulgate a final Federal rule for salmon fisheries in the EEZ superseding the inconsistent State regulation or statute.

If the Secretary receives a public appeal of a State inseason regulation, which is alleged to be inconsistent with the applicable criteria, he will: (1) Immediately provide a copy of the appeal to the Council and the Alaska Department of Fish and Game Commissioner, (2) consider any comments from the Council and Commissioner, and (3) either (A) notify the appellant that he has found the State's inseason regulation consistent with the applicable criteria or (B) if the State regulation is found inconsistent with the applicable criteria, immediately issue a Federal regulation for salmon fisheries in the EEZ superseding the State regulation unless there is sufficient time to follow the procedure for an annual or perennial regulation that has been determined preliminarily to be inconsistent with the applicable criteria.

#### **Changes to the Regulations Implementing the FMP**

Because Amendment 3 defers regulation of the sport and commercial salmon fisheries in the EEZ off the coast of Alaska to the State of Alaska, this final rule implementing Amendment 3 removes all the specific management measures presently contained in 50 CFR 674, subpart B (Management Measures—fishing times and areas, harvest limits, gear restrictions, and inseason adjustment procedures).

Subpart B of 50 CFR 674 will now simply refer to relevant State of Alaska salmon fishing regulations. Subpart A of 50 CFR 674 is amended to eliminate references to specific management measures no longer contained in subpart B.

#### **Classification**

The Regional Director determined that Amendment 3 is necessary for the conservation and management of the Alaskan salmon fisheries and that it is consistent with the Magnuson Act and other applicable law.

The Council prepared an Environmental Assessment (EA) for Amendment 3. The Assistant Administrator found, based on the EA, that there will be no significant impacts on the quality of the human environment as a result of this rule. A copy of the EA may be obtained from the Regional Director at the above address.

The Assistant Administrator has determined that this final rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination was based on a review of the Regulatory Impact Review (RIR) prepared by the Council which concluded that Amendment 3 does not change the FMP in a manner affecting the actual functioning of the fishery. A summary of the RIR was published with the proposed rule at 55 FR 28661.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on small entities. As a result, a regulatory flexibility analysis was not prepared. A summary of the reasons for this certification was published with the proposed rule at 55 FR 28661.

This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Alaska. This determination was submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act. The responsible State agency did not comment within the statutory time period.

The Federalism Official for the Department of Commerce determined that Amendment 3 and the proposed rule had sufficient federalism implications to warrant preparation of a Federalism Assessment (FA) under Executive Order 12612 (E.O. 12612). An FA was prepared and is available, upon request, at the above address. The FA contains the Federalism Official's certification that the provisions and policies of Amendment 3 and the implementing rule are consistent with the federalism principles, criteria, and requirements set forth in sections 2 through 5 of E.O. 12612. Amendment 3 and the final rule do not appear to affect Alaska's ability to discharge traditional State governmental functions, or other aspects of State sovereignty; additional costs or burdens to the State are not expected.



**List of Subjects in 50 CFR Part 674**

Fisheries, Fishing, International organizations, Reporting and Recordkeeping requirements.

Dated: November 8, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 674 is amended as follows:

**PART 674—HIGH SEAS SALMON FISHERY OFF ALASKA [AMENDED]**

1. The authority citation for part 674 continues to read as follows:

Authority: 16 U.S.C. 3631 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. Section 674.2 is amended by revising the definition of "West Area" under "management area" to read as follows:

**§ 674.2 Definitions.**

\* \* \* \* \*

Management area \* \* \*

(a) *West Area* means the waters of the EEZ seaward of Alaska which are

west of 143°53'36" W. longitude (Cape Suckling).

\* \* \* \* \*

3. Section 674.7 is revised to read as follows:

**§ 674.7 Prohibitions.**

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Fish for, take, or retain any salmon in violation of the Act or this part.

(b) Engage in fishing for salmon in the management area except to the extent authorized by § 674.4(a) of this part.

4. Subpart B is revised to read as follows:

**Subpart B—Management Measures**

Sec.

674.20 General.

674.21 Commercial fishing.

674.22 Personal use fishing.

**Subpart B—Management Measures****§ 674.20 General.**

The management measures specified in this subpart shall apply to all fishing for salmon in the management area by

vessels registered under laws of the State of Alaska.

**§ 674.21 Commercial fishing.**

(a) For State of Alaska statutes and regulations governing commercial fishing, see Alaska Statutes, title 16—Fish and Game; title 5 of the Alaska Administrative Code, chapters 1–39.

(b) For State of Alaska Regulations specifically governing the salmon troll fishery, see 5 Alaska Administrative Code 30 (Yakutat Area), and 5 Alaska Administrative Code 33 (Southeastern Alaska Area).

**§ 674.22 Personal use fishing.**

(a) For State of Alaska statutes and regulations governing sport and personal use salmon fishing other than subsistence fishing, see Alaska Statutes, title 16—Fish and Game; 5 Alaska Administrative Codes 42.010 through 75.995.

(b) For State of Alaska statutes and regulations governing subsistence fishing, see Alaska Statutes, title 16—Fish and Game; 5 Alaska Administrative Codes 01, 02, 39, and 99.010.

[FR Doc. 90-26892 Filed 11-9-90; 8:45 am]

BILLING CODE 3510-22-M



# Proposed Rules

Federal Register

Vol. 55, No. 221

Thursday, November 15, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 360

[Docket No. 90-225]

#### Noxious Weeds; Notice of Public Meetings; Change in Meeting Dates

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of public meetings.

**SUMMARY:** We are rescheduling two public meetings that will be held to obtain information concerning whether melaleuca should be designated as a Federal noxious weed.

**DATES:** Consideration will be given to comments received on or before December 24, 1990. The public meetings will be held on December 14, 1990, in Fort Lauderdale, Florida, and on December 18, 1990, in San Francisco, California.

**ADDRESSES:** To help ensure that your written comments are considered, send an original and three copies to Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6506 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-158. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue, SW, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

The public meetings will be held in Rooms 437A and 437B of the Broward County Governmental Center, 115 South Andrews Avenue, Fort Lauderdale, Florida, on December 14, 1990, and in Room 1415, 630 Sansome Street, San Francisco, California, on December 18, 1990.

**FOR FURTHER INFORMATION CONTACT:** Thomas G. Flanagan, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine,

APHIS, USDA, Room 646, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

**SUPPLEMENTARY INFORMATION:** In a document published in the Federal Register on September 24, 1990 (55 FR 39010-39011, Docket Number 90-158), we gave notice of two public meetings, to be held on October 29 and 31, for the purpose of obtaining information concerning whether *Melaleuca quinquenervia* (cav.) should be designated as a Federal noxious weed. On October 30, 1990, we published a document in the Federal Register rescheduling the meetings to November 16 and 20, 1990 (55 FR 45611 Docket Number 90-217).

We have received a request to reschedule the meetings again, to allow participation by certain interested persons who would not be able to attend on the previously announced dates. We are granting this request, since it appears that rescheduling the meeting will allow fuller participation by interested individuals. The new meeting dates and locations are listed under the "DATES" section of this document. The meeting times, from 10 a.m. to 5 p.m., are unchanged.

We are also extending the comment period until December 24, 1990.

**Authority:** Secs. 4, 10; 88 Stat. 2149, 2151; 7 U.S.C. 2803, 2809; 41 FR 4251.

Done in Washington, DC, this 13th day of November 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-27036 Filed 11-13-90; 1:02 p.m.]

BILLING CODE 3410-34-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD7-90-91]

#### Drawbridge Operation Regulations; Great Canal, FL

**AGENCY:** Coast Guard, DOT.

**ACTION:** Proposed rule.

**SUMMARY:** At the request of David McWilliams, the bridgeowner, the Coast Guard is considering a change to the regulations governing the bridge across the Great Canal to Lansing Island at

Mile 0.7 by requiring that advance notice for opening be given during certain periods. This proposal is being made because of a lack of requests for opening the Lansing Island or the nearby Tortoise Island and Mathers drawbridges at night. This provision would relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

**DATES:** Comments must be received on or before December 31, 1990.

**ADDRESSES:** Comments should be mailed to Commander (oan) Seventh Coast Guard District, 909 SE. 1st Ave. Miami, FL 33131-3050. The comments and other materials referenced in this notice will be available for inspection and copying at Brickell Plaza Federal Building, room 484, 909 SE. 1st Avenue, Miami, FL. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

**FOR FURTHER INFORMATION CONTACT:** Walt Paskowsky, (305) 536-4103.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope. The Commander, Seventh Coast Guard District will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

#### Drafting Information

The drafters of this notice are Walt Paskowsky, project officer, and Lt. Genelle Tanos, project attorney.

#### Discussion of Proposed Regulations

The Bridge which has been used to transport workers and construction material to Lansing Island opens on signal. When no work is taking place, the span has been left in the open position. It is proposed that the bridge



be tended full time and opened on signal except for an 8 hour period from 10 pm to 6 am each night from Sunday evening through Friday morning when 15 minutes advance notice would be required. The bridge would be constantly attended during Friday and Saturday evening and during evenings preceding a federal holiday. Notification would be given by radio or telephone to an adjacent gatehouse which will be manned 24 hours. The proposed rule would be identical to the existing operating rules for the Tortoise Island bridge across the same waterway at mile 2.6, and the Mathers Bridge across the Banana River at mile 0.5.

#### Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because of a lack of bridge openings at night. Since the economic impact of the proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant impact on a substantial number of small entities.

#### List of Subjects in 33 CFR Part 117

Bridges

#### Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The Authority citation for part 117 continues to read as follows:

Authority: 33 USC 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.285 is revised by designating the existing text as paragraph (b) and adding a new paragraph (a) to read as follows:

#### § 117.285 Great Canal.

(a) The draw of the Lansing Island bridge, mile 0.7 shall open on signal, except that during the evening hours from 10 p.m. to 6 a.m. from Sunday evening until Friday morning, except on evenings preceding a federal holiday, the draw shall open on signal if at least 15 minutes notice is given.

\* \* \* \* \*

Dated: November 1, 1990.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 90-26888 Filed 11-14-90; 8:45 am]

BILLING CODE 4910-14-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Family Support Administration

#### Office of Child Support Enforcement

#### 45 CFR Part 303

RIN 0970-AA78

#### Child Support Enforcement Program; Federal Parent Locator Service Fees

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Office of Child Support Enforcement operates the Federal Parent Locator Service as part of its program of assisting States in securing support for children. We have decided to seek reimbursement from States for use of the Federal Parent Locator Service in IV-D cases in which support is not required to be assigned to the State, beginning when this rule is published in final form. States may pay the fees themselves or charge the individuals involved in the case. The user fee is anticipated to be a minimal amount, not exceeding \$2.00 per request.

DATES: Consideration will be given to comments received by January 14, 1991.

ADDRESSES: Address comments to: Director, Office of Child Support Enforcement, Department of Health and Human Services, 370 L'Enfant Promenade SW., Washington, DC 20447, Attention: Director, Policy and Planning Division, Mail Stop: OCSE/PPD. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5 p.m., on the 4th floor of the Department's offices at the above address.

FOR FURTHER INFORMATION CONTACT: Andrew J. Hagan, (202) 252-5375.

#### SUPPLEMENTARY INFORMATION: Paperwork Reduction Act

There are no information collection requirements in this proposed regulation which require approval under the Paperwork Reduction Act.

#### Statutory Authority

This regulation is published under the authority of sections 453(c)(3), 453(e)(2) and 1102 of the Social Security Act (the Act).

Section 453 of the Act was enacted as part of Public Law 93-647, the Social Services Amendments of 1974. Section 453 established the Federal Parent Locator Service and specifies the conditions under which authorized persons may request information concerning the whereabouts of absent parents. Under section 453(c)(3), "the resident parent, legal guardian, attorney, or agent of a child (other than a child receiving aid under part A of this title) (as determined by regulations prescribed by the Secretary) without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child" is authorized to request Federal Parent Locator Service information. Section 453(e)(2) requires that "Whenever such services are furnished to an individual specified in subsection (c)(3), a fee shall be charged such individual. The fee so charged shall be used to reimburse the Secretary or his delegate for the expense of providing such services."

Section 1102 of the Act requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act.

#### Background

The Federal Parent Locator Service is a computerized network through which States may request location information from the Federal government to find absent parents for purposes of establishing paternity and securing support.

Under the Child Support Enforcement program, each State is required to operate a State parent locator service. See regulations at 45 CFR 302.35. The State parent locator service uses all relevant sources of information available to it in the State, such as unemployment, employer and wage information, tax records, motor vehicle records and property ownership information. In addition, the State parent locator service has access to the Federal Parent Locator Service, which obtains information available in Federal and State data bases, such as records of the Internal Revenue Service, the Social Security Administration, the Department



of Defense, the National Personnel Records Center, the Selective Service, the Veterans Administration, and the State Employment Security Agencies.

The process of obtaining this location information is carefully controlled under regulations at 45 CFR 303.70 and by program instructions. A State request must come only from State parent locator service offices and authorized local offices. States must submit an annual certification, signed by the director of the State child support enforcement agency (known as the IV-D agency) or his designee attesting that requests are being made solely to locate an individual for Child Support Enforcement program purposes, or in connection with a parental kidnapping or child custody case as authorized by Public Law 96-611. All information obtained through the Federal Parent Locator Service must be safeguarded and treated as confidential.

Until now, the Department has not collected Federal Parent Locator Service fees in most child support cases, using the rationale that only individuals who did not avail themselves of the full range of Child Support Enforcement program services (*i.e.*, non-IV-D child support cases in which the only service requested is location of an absent parent) should be required to pay the location fee. (See OSCE-AT-76-3, dated February 13, 1976.)

#### Changes to Existing Regulations

Fees for use of the Federal Parent Locator Service in child support enforcement cases are covered in current regulations at § 303.70(e)(1), (2), (4) and (5). Under paragraph (e)(1), the State IV-D agency must pay the fees required under section 453(e)(2) of the Act. Under paragraph (e)(2), the IV-D agency shall charge the fee to the resident parent, attorney or agent of a child who is not receiving aid under title IV-A of the Act. (To date, this has been interpreted to mean an individual who has requested location services only.) Paragraph (e)(4) requires that the fee be reasonable and as close to actual costs as possible so as not to discourage use of services by authorized individuals. Under paragraph (e)(5), the Office of Child Support Enforcement will collect the fees from the IV-D agency by an offset of the State's quarterly grant award. Other parts of paragraph (e) cover Federal Parent Locator Service fees charged to States for location requests made in parental kidnapping and child custody cases.

In this document, we propose to revise § 303.70(e)(1) to make clear that, effective when this rule is published in final form, the State must pay the

Federal Parent Locator Service fee in any child support case in which individuals are not required to assign their support rights to the State. This is consistent with the requirements of section 453(e)(2) of the Act, and the original intent of Congress in 1975, that a fee shall be charged to reimburse the Secretary for the expense of providing Federal Parent Locator Services. Moreover, we are using our authority under section 1102 of the Act to expand the cases not subject to the fee to include, in addition to AFDC cases, other IV-D cases in which an assignment of support rights to the State is required (*e.g.*, IV-E foster care and Medicaid cases).

We propose to revise paragraph (e)(2) to permit the State to charge the resident parent, attorney or agent of a child the fee or to pay the fee itself without charging the individual. This provision in the proposed paragraph (e)(2)(i) conforms to current Federal policy in paragraph (e)(3) on Federal Parent Locator Service fees paid in parental kidnapping and child custody cases. The new paragraph (e)(2)(i) would give States the same payment option in all three types of cases (IV-D cases in which no assignment of support rights to the State is required, non-IV-D cases in which location of an absent parent is the only service requested, and parental kidnapping/child custody cases). Paragraph (e)(2)(ii) would allow the IV-D agency to recover the fee from the absent parent in non-AFDC cases and repay the applicant or itself, as permitted with application fees for non-AFDC cases under § 302.33. Paragraph (e)(2)(iii) would provide that the payment of a fee by the IV-D agency is not a reimbursable expense under the IV-D program. Rather, such amounts would be counted as program income and, in accordance with § 304.50, would be excluded from quarterly expenditure claims. The current paragraph (e)(3) would be deleted.

We propose to retain the current paragraph (e)(4) and redesignate it as a new paragraph (e). It would continue to require that fees be reasonable and as close to actual costs as possible so as not to discourage use of Federal Parent Locator Services.

Current paragraph (e)(5) provides that the Federal government will collect the fees from the States by an offset of the quarterly grant awards. We propose to change this procedure to more closely match the procedure used in collecting fees from the States in parental kidnapping and child custody cases. This process is contained in current paragraph (e)(6) and may be summarized as follows.

For costs of processing requests to use the Federal Parent Locator Service, the Federal government will bill the IV-D agency periodically. As is currently the case, a fee will be charged to submit a case with a social security number to the Federal Parent Locator Service and an additional fee will be charged to cover costs of searching for a social security number before processing a request for location information. Upon receipt of a bill, the State must transmit payment to the Federal government. If a State fails to pay the fees charged, Federal Parent Locator Services may be suspended for cases subject to the fees until payment is received. Finally, fees shall be transmitted in the amount and manner prescribed by the Office of Child Support Enforcement in instructions. We propose to place the procedures for Federal collection of fees outlined above in a new paragraph (e)(4) that would cover fees in applicable child support cases and all parental kidnapping/child custody cases. Current paragraphs (e)(5) and (6) would be deleted.

We expect that States will be able to have mechanisms in place to collect and transmit the fees with minimal lead time, since they have already developed procedures for handling FPLS user fees in parental kidnapping and non-IV-D cases. To simplify procedures, States may wish to collect the FPLS fee "up front" along with the application fee for IV-D services.

Based on the number of requests for FPLS services anticipated for FY 1991, we expect to recover approximately \$1 million per year through the charges proposed by this regulation.

#### Fees Currently in Effect

Most of the billing and payment procedures, proposed for extension in this regulation to all child support cases subject to a fee, have been in effect for parental kidnapping and child custody cases since 1981 when the final regulations on use of the Federal Parent Locator Service in parental kidnapping and child custody cases were published. These procedures result in a direct payment to the Office of Child Support Enforcement, through an HHS account, and expedite availability of funds specific to operation of the Federal Parent Locator Service.

Under current policies on use of the Federal Parent Locator Service in parental kidnapping and child custody cases (OCSE Action Transmittal 81-12, dated June 15, 1981), we charge a fee of \$10 for each request that contains a social security number, and an additional fee of \$4 for each request



submitted without a social security number. If the social security number cannot be found, the \$10 fee is not charged since location requests cannot be processed without this number. A similar fee is charged for non-IV-D location requests pursuant to OCSE-AT-82-17 (dated November 12, 1982). States are notified by action transmittal in advance of any change in the fee amounts. States are currently billed on an annual basis to minimize the administration and paperwork connected with this process. Thus, despite the implementation of this rule when it is published in final form, States that expect to pay the fees themselves rather than charge for the services should have ample time to obtain any budget authorization needed to cover the cost of the fees.

We propose to extend procedures used in parental kidnapping and child custody cases to all child support cases subject to the fee, so that these requests are handled in the same manner. OCSE is currently reviewing the costs and determining a user fee which is anticipated to be substantially less than is currently charged, due to technological improvements and an expected increase in requests and the resulting economies of scale. At present, we expect the fee will not exceed \$2.00 per request. Because of the low fee, the volume of requests should not be affected.

An Action Transmittal will be issued setting forth fees and procedures for billing and payment for all requests for Federal Parent Locator Services in parental kidnapping and child custody cases, cases in which an assignment of support rights to the State is not required, and requests for location in non-IV-D cases. We will review costs periodically and make adjustments to the fees and revise the Action Transmittal, if appropriate. Upon publication of the final regulation, OCSE-AT-76-3 will be rescinded, effective when this rule is published in final form.

#### Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act of 1980 (Public Law 96-354), we are required to prepare a regulatory flexibility analysis for those rules which would have a significant economic impact on a substantial number of small entities. Because the impact of these regulations is on States and, at State option, individuals, these regulations would not have a significant economic impact on a substantial number of small entities and a regulatory flexibility analysis is not required.

#### Regulatory Impact Analysis

The Secretary has determined, in accordance with Executive Order 12291, that this rule does not constitute a "major" rule for the following reasons:

- (1) The annual effect on the economy would be less than \$100 million;
- (2) This rule would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and
- (3) This rule would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### List of Subjects in 45 CFR part 303

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No. 13.783, Child Support Enforcement Program)

Dated: August 21, 1990.

Jo Anne B. Barnhart,  
Director, Office of Child Support  
Enforcement.

Dated: September 27, 1990.

Louis W. Sullivan,  
Secretary.

#### PART 303—STANDARDS FOR PROGRAM OPERATIONS

1. The authority citation for Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

2. For the reasons set forth in the preamble, we propose to revise 45 CFR 303.70(e) to read as follows:

**§ 303.70 Requests by the State parent locator service for information from the Federal Parent Locator Service (PLS).**

\* \* \* \* \*

(e)(1) The IV-D agency shall pay the fees required under sections 454(17) and 453(e)(2) of the Act in cases other than those in which individuals are required to assign their support rights to the State.

(2)(i) The IV-D agency may charge an individual requesting information or pay without charging the individual the fee required under sections 453(e)(2) and 454(17) of the Act.

(ii) The State may recover the fee collected under section 453(e)(2) from the absent parent who owes a support obligation to a non-AFDC family on whose behalf the IV-D agency is

providing services and repay it to the applicant or itself.

(iii) State funds used to pay the fee under section 453(3)(2) are not program expenditures under the State plan but are program income under § 304.50 of this chapter.

(3) The fees required under sections 453(e)(2) and 454(17) of the Act shall be reasonable and as close to actual full costs as possible so as not to discourage use of Federal PLS services by authorized individuals.

(4)(i) For costs of processing requests for information under sections 453(e)(2) and 454(17) of the Act, the Federal government will bill the IV-D agency periodically. A fee will be charged for submitting a case to the Federal PLS for location information. If a social security number is not submitted with the case, an additional fee will be charged to cover the costs of searching for a social security number before processing a request for location information. If a social security number cannot be found, only the additional fee will be charged.

(ii) The IV-D agency shall transmit payment to the Federal government upon receipt of a bill. If a State fails to pay the appropriate fees charged by the Office under this section, the Federal PLS services provided in cases subject to the fees may be suspended until payment is received.

(iii) Fees shall be transmitted in the amount and manner prescribed by the Office in instructions.

[FR Doc. 90-26877 Filed 11-14-90; 8:45 am]

BILLING CODE 4150-04-M

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[MM Docket No. 90-531, RM-7497]

#### Television Broadcasting Services; Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed on behalf of Black Warrior Broadcasting seeking the allotment of UHF television Channel 23 to Tuscaloosa, Alabama, as that community's third local commercial television broadcast service. Coordinates used for this proposal are 33-08-16 and 87-30-26.

Although the Commission has imposed a freeze on new TV allotments in specified metropolitan areas pending



the outcome of an inquiry into the uses of advanced television systems in broadcasting, this proposal is not affected thereby.

**DATES:** Comments must be filed on or before December 31, 1990, and reply comments on or before January 15, 1991.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Thomas J. Dougherty, Jr. and Frank R. Jazzo, Esqs., Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., suite 400, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-531, adopted October 25, 1990, and released November 9, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division,  
Mass Media Bureau.

[FR Doc. 90-26912 Filed 11-14-90; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 90-532, RM-7199]

#### Radio Broadcasting Services; Sheldon, IA, and Jackson and Springfield, MN

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition by Sheldon Broadcasting Company, Inc., seeking the substitution of Channel 287C2 for Channel 288A at Sheldon, Iowa, and the modification of its license for Station KIWA-FM accordingly. To accommodate the allotment at Sheldon, petitioner also requests the modification of Station KRAQ's license to specify Channel 289A in lieu of Channel 287A at Jackson, Minnesota, and the modification of Station KLPR's construction permit to specify operation on Channel 234A in lieu of its present Channel 289A at Springfield, Minnesota.

**DATES:** Comments must be filed on or before December 31, 1990, and reply comments on or before January 15, 1991.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mark E. Fields, Esq., Miller & Fields, P.C., P.O. Box 33003, Washington, DC 20033 (Counsel to petitioner).

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making and Orders to Show Cause, MM Docket No. 90-532, adopted October 25, 1990, and released November 9, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Channel 287C2 can be allotted to Sheldon, Iowa, in compliance with the Commission's minimum distance separation requirements and can be used at Station KIWA-FM's present transmitter site. The coordinates for Channel 287C2 at Sheldon are North Latitude 43-11-00 and West Longitude 95-52-05. Channel 289A can be allotted

to Jackson, Minnesota, in compliance with the Commission's minimum distance separation requirements and can be used at Station KRAQ's licensed transmitter site, at coordinates North Latitude 43-37-42 and West Longitude 94-59-12. Channel 234A can be allotted to Springfield, Minnesota, and can be used at the transmitter site specified in Station KLPR's construction permit, at coordinates North Latitude 44-14-13 and West Longitude 95-06-20. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 287C2 at Sheldon or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division,  
Mass Media Bureau.

[FR Doc. 90-26911 Filed 11-14-90; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 90-533, RM-7529]

#### Radio Broadcasting Services; Florence, OR

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition by Coast Broadcasting Co., Inc., seeking the allotment of Channel 295A to Florence, Oregon, as the community's second local FM service. Channel 295A can be allotted to Florence in compliance with



the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 295A at Florence are North Latitude 43-58-06 and West Longitude 124-06-30.

**DATES:** Comments must be filed on or before December 31, 1990, and reply comments on or before January 15, 1991.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jon Thompson, 1231-18th Street, P.O. Box 20000, Florence, Oregon 97439 (Petitioner); Duane J. Polich, P-N-P Broadcasting, Inc., P.O. Box 2869, Othello, Washington 99344 (Consultant to petitioner).

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-533, adopted October 26, 1990, and released November 9, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

Assistant Chief, Policy and Rules Division,  
Mass Media Bureau.

[FR Doc. 90-26913 Filed 11-14-90; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 652

[Docket No. 901187-0287]

#### Atlantic Surf Clam and Ocean Quahog Fisheries

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of proposed 1991 fishing quotas.

**SUMMARY:** NOAA issues a notice of proposed quotas for the surf clam and ocean quahog fisheries for 1991. These quotas were selected from a range defined as optimum yield (OY) for each fishery. The intended effect of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1991.

**DATES:** Comments will be accepted until December 10, 1990.

**ADDRESSES:** Send comments on the proposed 1991 fishing quotas to Richard B. Roe, Regional Director, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. Please mark the outside of the envelope "Surf Clam Quota Comments". Information used to justify the quota is available for public inspection during business hours at this address; copies may be requested in writing.

**FOR FURTHER INFORMATION CONTACT:** Jack Terrill (Resource Policy Analyst) 508-281-9252.

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs the Secretary of Commerce (Secretary), in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from within ranges that have been identified as OY for each fishery.

In specifying the quota values in this action, the Secretary considered the latest available stock assessments prepared by NMFS, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas likely to be reopened to fishing. This information was presented in a written report prepared by the Council and adopted by the Regional Director, Northeast Region, NMFS. The Secretary has also received

and taken into account specific recommendations from the Council.

The proposed quotas for the surf clam and ocean quahog fisheries for 1991 are:

#### 1991 PROPOSED SURF CLAM/OCEAN QUAHOG QUOTAS

[In bushels]

Fishery	1991 proposed quotas
Surf clam .....	2,850,000
Ocean quahog .....	5,300,000

The implementation of Amendment 8 to the FMP (55 FR 24184, June 14, 1990) combined the three surf clam management areas (Mid-Atlantic, Nantucket Shoals, Georges Bank) into one. Prior to Amendment 8, quotas were specified for each area. The amendment removed the quarterly quotas for surf clams and the rollover provision that allowed for the addition or subtraction of unused or overharvested quota amounts from quarter to quarter and year to year.

The proposed surf clam quota for 1991 is the same as the sum of the base quotas for the Mid-Atlantic and Nantucket Shoals Areas for each of the years 1986 through 1990. The base quota of 300,000 bushels for the Georges Bank Area in those years was not included in the proposed overall quota for 1991 because the Council anticipates a continuation of a closure of the area east of 69° west longitude and south of 42° 20' north latitude. This area, encompassing the old Georges Bank Area, was closed (54 FR 33700, August 16, 1989; 54 FR 47364, November 14, 1989; and 55 FR 22336, June 1, 1990) when it was determined that high concentrations of paralytic shellfish poison toxin were present in the area. The area is closed until November 21, 1990, (55 FR 35435, August 30, 1990) after which a continuing closure (55 FR 37500, September 12, 1990) proposed under the authority of the amended FMP is expected to be implemented. If the 300,000 bushels were allocated, the likely results is that increased effort and landings would occur in the areas previously designated as the Mid-Atlantic or Nantucket Shoals Areas.

The proposed ocean quahog quota is the same as was allocated in 1990. This amount reflects anticipated 1991 landings based upon what occurred in the 1990 fishery. In recommending this amount, the Council intent was to minimize the impact on the fishery and market that a significant increase in harvest could cause.



Comments on the proposed quotas will be accepted for 30 days. Comments will be considered by the Secretary, who will determine appropriate final annual quotas for each fishery and publish those quotas by notice in the Federal Register.

#### Others Matters

This action is taken under authority of 50 CFR 652.21 and is taken in compliance with E.O. 12291.

#### List of Subjects in 50 CFR Part 652

Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 9, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

[FR Doc. 90-26960 Filed 11-9-90; 2:24 pm]

BILLING CODE 3510-22-M



# Notices

Federal Register

Vol. 55, No. 221

Thursday, November 15, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF COMMERCE

### Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency:* Bureau of Export Administration.

*Title:* Exceptions to Reporting Requirement, under the IC/DV Procedures.

*Form Number:* Agency—EAR § 775.3(i)(3) and 775.9(g)(2); OMB—Control No. 0694-0001.

*Type of Request:* Extension of the expiration date of a currently approved collection.

*Burden:* 61 respondents; 32 reporting/recordkeeping hours. Average time per respondent is 30 minutes for reporting and 1 minute for recordkeeping.

*Needs and Uses:* This reporting requirement allows U.S. exporters to request an exception to the import certificate (or its equivalent) procedure. This reporting requirement also covers requests for exceptions to the delivery verification procedure.

*Affected Public:* Businesses or other for-profit institutions; small business or organizations.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*OMB Desk Officer:* Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room

3208 New Executive Office Building, Washington, DC 20503.

Dated: November 8, 1990.

Edward Michals,

*Departmental Clearance Officer, Office of Management and Organization.*

[FR Doc. 90-26888 Filed 11-14-90; 8:45 am]

BILLING CODE 3510-CW-M

## International Trade Administration

[A-588-817]

### Postponement of Preliminary Antidumping Duty Determination: High Information Content Flat Panel Displays and Subassemblies Thereof from Japan

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce is postponing its preliminary determination in the antidumping duty investigation of high information content flat panel displays and subassemblies thereof (FPDs) from Japan. The statutory deadline for issuing this preliminary determination is no later than February 13, 1991.

**EFFECTIVE DATES:** November 15, 1990.

**FOR FURTHER INFORMATION CONTACT:** Bradford Ward (202-377-5288), Karmi Leiman (202-377-8498), or Joel Fischl (202-377-1778, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

**SUPPLEMENTARY INFORMATION:** On August 7, 1990, the Department initiated an antidumping duty investigation of FPDs from Japan. The notice stated that we would issue our preliminary determination on or before December 26, 1990 (55 FR 33146, August 14, 1990).

Respondents allege that this investigation is "extraordinarily complex" under section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act). Accordingly, they request that the Department postpone the preliminary determination until February 13, 1991.

We determine that this case is extraordinarily complicated because it involves further manufacturing of subject merchandise by the respondents'

U.S. subsidiaries before sale to an unrelated party, constructed value, third country sales data, a large number of transactions and because of the complex nature of the product. We have determined that the parties concerned are cooperating and that additional time is necessary to make a preliminary antidumping duty determination.

For these reasons, we determine that this investigation is extraordinarily complicated in accordance with section 733(c)(1)(B)(i) (I) and (II) of the Act and that additional time is necessary to make this preliminary determination in accordance with section 733(c)(1)(B)(ii) of the Act. The statutory deadline for issuing this determination is no later than February 13, 1991.

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 353.15(b)(3)(d).

Dated: November 7, 1990.

Marjorie A. Chorlins,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 90-26946 Filed 11-14-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-030]

### Large Power Transformers From France; Final Results of Antidumping Duty Administrative Review

**AGENCY:** International Trade Administration/Import Administration, Commerce.

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On March 1, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on large power transformers from France. The review covered one manufacturer of this merchandise to the United States and the period November 1, 1973 through May 31, 1983.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we published the final results of review on September 20, 1984. However, we deferred our final analysis of two units shipped in 1980. We have now completed our review of these units.

**EFFECTIVE DATE:** November 15, 1990.



**FOR FURTHER INFORMATION CONTACT:**

Laurie A. Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5253.

**SUPPLEMENTARY INFORMATION:****Background**

On March 1, 1984, the Department of Commerce (the Department) published in the *Federal Register* (49 FR 10268) the preliminary results of its administrative review of the antidumping finding on large power transformers from France (37 FR 11772, June 14, 1972). We gave interested parties an opportunity to comment on the preliminary results. At the requests of the petitioner, Westinghouse, and respondent, Alsthom-Atlantique, we held a hearing on April 9, 1984. On September 20, 1984, we published the final results of review (49 FR 36888), deferring the final analysis of two units. The Department has now completed the administrative review of those two units in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

**Scope of the Review**

Imports covered by the review are shipments of large power transformers; that is, all types of transformers rated 10,000 kVA (kilovolt/ampere) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term "transformers" includes, but is not limited to, shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers. Not included are combination units, commonly known as rectifiers, if the entire integrated assembly is imported in the same shipment and entered on the same entry and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. During the review period covered merchandise was classifiable under item numbers 682.0765, 682.0765, and 682.0775 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) items 8504.22.00, 8504.23.00, 8504.34.33, 8504.40.00, and 8504.50.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer of transformers, Alsthom-Atlantique (Alsthom), and two units shipped during the period May 1, 1980 through May 31, 1983.

**Analysis of Comments**

Westinghouse had three comments regarding our analysis of U.S. units H 66820-01 and H 66820-02 and one comment regarding the home market comparison model, 4475-L (see comments 19-22 of the September 20, 1984 notice of final results). In response, we deferred our analysis of the units, pending further investigation.

*Comment 1:* Westinghouse questions the veracity of price information submitted on U.S. transformers H 66820-01 and H 66820-02. Alsthom maintains that there is no reason to question the value of these transformers.

*Department's position:* We have reviewed the information Alsthom submitted to the Department on its U.S. prices of units H 66820-01 and H 66820-02 and have found no reason to question the accuracy of the information. In addition, we confirmed with the Customs Service that the entered values of the transformers were appropriate. Therefore, we are satisfied that Alsthom reported the prices appropriately.

*Comment 2:* Westinghouse argues that the Department did not properly account for the high accuracy class on the bushing current transformers (BCTs) on U.S. transformers H 66820-01 and H 66820-02. Westinghouse argues that Westinghouse Price Rules (WPR) 48-420, Section 8, Rule 2 requires a \$9,504 adjustment for the six high voltage BCTs, a \$1,977 adjustment for the three low voltage bushings, and a \$659 adjustment for the neutral bushings.

*Department's position:* We agree and have made the appropriate adjustments to the calculations.

*Comment 3:* Westinghouse argues that the Department did not correctly account for the extra creep bushings on U.S. transformers H 66820-01 and H 66820-02, and submits that the Department should extrapolate from the WPR to make the adjustment.

*Department's position:* We agree with petitioner's proposal to extrapolate from the WPR to make the necessary adjustment for the extra creep bushings.

*Comment 4:* Westinghouse argues that the Department erred in calculating the adjustment for the impedance limits under WPR 48-240, section 5, rule 22 and that a 6 percent, rather than 14 percent, adjustment is warranted on home market transformer 4475-L.

*Department's position:* We agree and have made the appropriate adjustments to the calculations.

**Final Results of Review**

We have recalculated the margin for these units according to the methodology established in the

September 20, 1984 notice of final results. As a result of our analysis, there is no dumping margin for these units.

The Department will issue appraisal instructions for the appropriate entries directly to the Customs Service.

The cash deposit requirements in our notice of final results of administrative reviews (52 FR 36294, September 28, 1987) remain in effect for Alsthom and all other firms.

This administrative review and notice are in accordance with section 751(a)(1) and 19 CFR 353.22.

Dated: November 6, 1990.

Marjorie A. Chorlins,  
Acting Assistant Secretary for Import Administration.

[FR Doc. 90-26947 Filed 11-14-90; 8:45 am]

BILLING CODE 3510-DS-M

[Application No. 89-A0016]

**Export Trade Certificate of Review**

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of issuance of an amended Export Trade Certification of Review.

**SUMMARY:** The Department of Commerce, has issued an amendment to the Export Trade Certificate of Review granted to the National Geothermal Association. Notice of issuance of the Certificate was published in the *Federal Register* on February 9, 1990 (55 FR 4647).

**FOR FURTHER INFORMATION CONTACT:** George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 ("the Act") (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (1990) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the *Federal Register*. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.



**Description of Amended Certificate**

Export Trade Certificate of Review No. 89-00016 was issued to the National Geothermal Association (NGA) on February 5, 1990. Notice of issuance of the Certificate was published in the *Federal Register* on February 9, 1990 (55 FR 4647).

NGA has amended its Certificate as follows:

(1) By adding the following companies as "Members" of the Certificate: Ballew Tool Company; Big Bear Mud & Engineering Company; Calpine Corporation; Anna Carter & Associates; Exergy, Inc.; GeoProducts Corporation; Geothermal Development Associates; Independent Power Corporation; M-I Drilling Fluids Company, and its controlling entity Dresser Industries, Inc.; Maxwell Laboratories, S-CUBED Division, and its controlling entity Maxwell Laboratories, Inc.; U.S. Geothermal Industries Corporation; Valley Engineers, Inc.; Karen Venable; Western Atlas International, Inc.; and Williams Tool Company, Inc.; and

(2) By indicating that Eastman Christensen, a current Member of the Certificate, is now a wholly-owned subsidiary of Baker Hughes Incorporated, having recently been acquired from the Norton Company.

**EFFECTIVE DATE:** August 9, 1990.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

Dated: November 7, 1990.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 90-26886 Filed 11-14-90; 8:45 am]

BILLING CODE 3510-DR-M

**Export Trade Certificate of Review**

**ACTION:** Notice of Application for an Amendment to an Export Trade Certificate of Review.

**SUMMARY:** The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the amended Certificate should be issued.

**FOR FURTHER INFORMATION CONTACT:** George Muller, Director, Office of Export Trading Company Affairs, International

Trade Administration, 202/377-5131.

This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.8(a) require the Secretary to publish a notice in the *Federal Register* identifying the applicant and summarizing its proposed export conduct.

**Request for Public Comments**

Interested parties may submit written comments relevant to the determination whether the Certificate should be amended. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 90-2AE05."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 90-00005, which was issued on August 10, 1990 (55 FR 33740, August 17, 1990). The applicant has requested expedited review of the application pursuant to 15 CFR 325.8. The California Kiwifruit Commission ("CKC") has previously submitted an application (No. 90-A0005) to amend its Certificate by adding California Kiwifruit Exporters Association ("CKEA") as a member of the Certificate (FR 41871, October 18, 1990). The application for the first amendment is currently under review.

**Summary of the Application**

**Applicant:** California Kiwifruit Commission, 1540 River Park Drive, suite 110, Sacramento, California 95815.

**Contact:** Jennifer K. Wirick, Esquire.

**Telephone:** (202) 347-9300.

**Application No.:** 90-2AE05.

**Date Deemed Submitted:** November 1, 1990.

**Request for Amended Conduct**

CKC seeks to amend its Certificate to:

1. Add the following three companies as "Members" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): Coast-To-Coast Produce Co., San Luis Obispo, California; Nash De Camp Company, Visalia, California; and Tufts Ranch, Winters, California;

2. Delete Pandol Brothers, Inc., Delano, California as a "Member" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1));

3. Clarify that CKEA was established by CKC to conduct Export Trade Facilitation Services on behalf of its Members, and to participate in the Export Trade Activities and Methods of Operation contained in CKC's original certificate;

4. Clarify that the actual physical export of kiwifruit will not take place through CKC, but will be performed by individual Members and facilitated by CKC and/or CKEA;

5. Add "establishment of brokerage fees" as an Export Trade Activities and Methods of Operation and provide that information may be exchanged among Members concerning brokerage fees.

6. Provide that CKEA directors may be elected by the Members casting votes weighted in proportion to the volume of the Members' kiwifruit exports.

Dated: November 8, 1990.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 90-26887 Filed 11-14-90; 8:45 am]

BILLING CODE 3510-DR-M

**United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review**

**AGENCY:** United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Request for Panel Review of Final Determination made by the Canadian International Trade Tribunal continuing the finding of material injury originally made on April 15, 1983, respecting Certain Dumped Integral Horsepower Induction Motors, One Horsepower (1 HP) to Two Hundred Horsepower (200 HP) Inclusive, with Exceptions, Originating in or Exported from the United States of America, filed by Baldor Electric Company, Dryden Agencies Ltd. and Canadian Electro Drives (1982) Ltd. with the Canadian Section of the Binational Secretariat on October 31, 1990.



**SUMMARY:** On October 31, 1990, a Request for Panel Review was filed with the Canadian Section of the Binational Secretariat pursuant to Article 1904 of the United States-Canada Free-Trade Agreement. Panel review was requested of the final determination made by the Canadian International Trade Tribunal continuing the finding of material injury originally made on April 15, 1983, respecting Certain Dumped Integral Horsepower Induction Motors, One Horsepower (1HP) to Two Hundred Horsepower (200 HP) Inclusive, with Exceptions, Originating in or Exported from the United States of America, which was published in the *Canada Gazette*, part I (Vol. 124, No. 42) on October 20, 1990. The Binational Secretariat has assigned Case Number CDA-90-1904-01 to this Request for Panel Review.

**FOR FURTHER INFORMATION CONTACT:**

James R. Holbein, United States Secretary, Binational Secretariat, suite 4012, 14th and Constitution Avenue, Washington, DC 20230, (202) 377-5438.

**SUPPLEMENTARY INFORMATION:** Chapter

19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These rules were published in the *Federal Register* on December 30, 1988 (53 FR 53212). The rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the *Federal Register* on December 27, 1989 (54 FR 53165). The panel review in this matter will be conducted in accordance with these rules.

**Filing Deadlines**

Rule 35(2) of the rules requires the United States Secretary to publish a notice stating that a Request for Panel Review has been received. The Request for Panel Review was filed with the Canadian Section of the Binational

Secretariat on October 31, 1990, pursuant to Article 1904 of the Agreement.

Rule 35(1)(c) of the Rules provides that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is November 30, 1990);

(b) a party, investigating authority or interested person that does not file a Complaint may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is December 17, 1990);

(c) in the case of a final determination made in Canada, any person that would be entitled to appear and be represented in a judicial review of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is December 17, 1990); and

(d) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: November 8, 1990.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 90-26940 Filed 11-14-90; 8:45 am]

BILLING CODE 3510-GT-M

**Harvard University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments**

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

**Comments:** None received. **Decision:** Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

**Docket number:** 90-102. **Applicant:** Harvard University, Cambridge, MA 02138. **Instrument:** Gas Chromatograph/Mass Spectrometers, Model JMS-SX102. **Manufacturer:** JEOL, Japan. **Intended**

**use:** See notice at 55 FR 30952, July 30, 1990. **Reasons:** The foreign instrument provides (1) FAB ionization, (2) a scan rate to 0.1 seconds per decade and (3) resolution to 60 000.

**Docket number:** 90-104. **Applicant:** The University of Alabama, Tuscaloosa, AL 35487-0336. **Instrument:** Mass Spectrometer, Model VG AutoSpec-R. **Manufacturer:** VG Instruments, Inc., United Kingdom. **Intended use:** See notice at 55 FR 30952, July 30, 1990.

**Reasons:** The foreign instrument provides: (1) EBE geometry for linked scans, (2) FAB ionization and (3) a scan rate to 0.1 seconds per decade.

**Docket number:** 90-110. **Applicant:** Massachusetts Institute of Technology, Cambridge, MA 02139. **Instrument:** Refractometer, Model R-1. **Manufacturer:** Cannon Europa NV, The Netherlands. **Intended use:** See notice at 55 FR 30953, July 30, 1990. **Reasons:** The foreign instrument permits measurement of visual accommodation without rigid head fixation and employs a see-through visual field for a wide selection of display targets.

**Docket number:** 90-117. **Applicant:** National Institute of Standards and Technology, Gaithersburg, MD 20899.

**Instrument:** Velocity Selector for Small Angle Neutron Scattering Instrument, Model MDR-9-410-420. **Manufacturer:** Transelektro, Hungary. **Intended use:** See notice at 55 FR 32675, August 10, 1990. **Reasons:** The foreign instrument provides: (1) A beam size of 50 x 50 mm, (2) 75% transmission, and (3) a wavelength range of -4.0 to 35 angstroms.

**Docket number:** 90-120. **Applicant:** Pennsylvania State University, University Park, PA 16802. **Instrument:** Modulated Chlorophyll Fluorescence Measuring System. **Manufacturer:** Heinz Walz GmbH, West Germany. **Intended use:** See notice at 55 FR 32675, August 10, 1990. **Reasons:** The foreign instrument uses a pulse modulated source to provide in situ measures of chlorophyll fluorescence that are independent of ambient light intensity.

The National Institutes of Health advises in its memoranda dated September 18, 1990, that (1) The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent



scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90-26948 Filed 11-14-90; 8:45 am]

BILLING CODE 3510-DS-M

#### University of California, San Diego, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

**Comments:** None received. **Decision:** Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

**Docket number:** 90-109. **Applicant:** University of California, San Diego, La Jolla, CA 92093-3017. **Instrument:** Mass Spectrometer, Model MAT 252. **Manufacturer:** Finnigan Corporation, West Germany. **Intended use:** See notice at 55 FR 30952, July 30, 1990. **REASONS:** The foreign instrument provides an internal precision of 0.006%/oo for 10 bar  $\mu$ l samples of  $\text{SO}_2$  or  $\text{SF}_6$ .

**Docket number:** 90-111. **Applicant:** Duke University Medical Center, Durham, NC 27710. **Instrument:** Mechanical and Optical Measurement of Muscle Contractile Biophysics Station. **Manufacturer:** Wissenschaftliche Geräte, Dr. Guth, West Germany. **Intended use:** See notice at 55 FR 30953, July 30, 1990.

**Reasons:** The foreign instrument can measure the shortening of a contractile tissue with: (1) Sensitivity to velocity in the 300  $\mu$ m/s range, (2) force resolution of 0.3mg and (3) capability to rapidly change ambient solutions.

**Docket number:** 90-124. **Applicant:** Research Foundation of State University of New York, Stony Brook, NY 11794. **Instrument:** Mass Spectrometer, Model 262V. **Manufacturer:** Finnigan MAT, West Germany. **Intended use:** See notice at 55 FR 32675, August 10, 1990.

**Reasons:** The foreign instrument can measure 10 nanogram samples with a precision of 20 ppm for Nd, 50 ppm for Sr, and 0.5% for Pb and B.

**Docket number:** 90-127. **Applicant:** Lamont-Doherty Geological Observatory of Columbia University, Palisades, NY

10964. **Instrument:** Mass Spectrometer, Model Sector 54. **Manufacturer:** VG Isotech, United Kingdom. **Intended use:** See notice at 55 FR 32676, August 10, 1990. **Reasons:** The foreign instrument provides: (1) A nine-collector Faraday cup array, (2) an ion-counting Daly detector and (3) peak flatness better than  $\pm 1$  part in  $10^4$  over 240 ppm in mass.

**Docket number:** 90-131. **Applicant:** National Institutes of Health, Bethesda, MD 20892. **Instrument:** Gas Chromatograph Mass Spectrometer, Model JMS-SX102. **Manufacturer:** JEOL, Japan. **Intended use:** See notice at 55 FR 32676, August 10, 1990. **REASONS:** The foreign instrument provides: (1) Resolution to 60 000, (2) a scan speed to 0.1 second per decade and (3) a dual FAB target probe.

The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90-26949 Filed 11-14-90; 8:45 am]

BILLING CODE 3510-DS-M

#### Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

**Docket number:** 90-029R. **Applicant:** University of Vermont, Department of CRC, MFU Building, Burlington, VT 05405. **Instrument:** Mass Spectrometer, Model VG SIRA SERIES II. **Manufacturer:** VG Isogas, United Kingdom. Original notice of this resubmitted application was published in the Federal Register of March 13, 1990.

**Docket number:** 90-036R. **Applicant:** Cornell University, Ithaca, NY 14853.

**Instrument:** Mass Spectrometer, Model 252. **Manufacturer:** Finnigan MAT, West Germany. Original notice of this resubmitted application was published in the Federal Register of March 13, 1990.

**Docket number:** 90-048R. **Applicant:** University of Virginia, Department of Environmental Sciences, Charlottesville, VA 22903. **Instrument:** Mass Spectrometer, Model PRISM Series II. **Manufacturer:** VG Instruments, United Kingdom. Original notice of this resubmitted application was published in the Federal Register of April 17, 1990.

**Docket number:** 90-065R. **Applicant:** Louisiana State University Medical Center, 6400 Perkins Road, Baton Rouge, LA 70808. **Instrument:** Mass Spectrometer, Model Delta S. **Manufacturer:** Finnigan MAT, West Germany. Original notice of this resubmitted application was published in the Federal Register of May 2, 1990.

**Docket number:** 90-184. **Applicant:** Hawaii Institute of Geophysics, 2525 Correa Road, Honolulu, HI 96822. **Instrument:** Two (2) Field Portable Remote Radon Detectors, Model 611. **Manufacturer:** Alpha Nuclear Corporation, Canada. **Intended use:** The instrument will be used for long-term monitoring study of hourly changes in shallow soil gas radon concentrations on the island of Hawaii and an analysis of correlations between observed short-term variations in radon activities and the occurrence of earthquakes and meteorological changes. Another experiment involves investigation of the effects of soil permeability and soil moisture on subsurface radon concentrations and on the variability of radon with changing weather conditions. **Application received by commissioner of customs:** October 9, 1990.

**Docket number:** 90-185. **Applicant:** University of Arizona, Department of Geosciences, Gould-Simpson Building 208, Tucson, AZ 85719. **Instrument:** Mass Spectrometer, Model Delta S. **Manufacturer:** Finnigan, MAT, GmbH, West Germany. **Intended use:** The instrument will be used in electron impact ionization mass spectrometry for the measurement of the isotopic ratios of carbon, nitrogen, oxygen and hydrogen. **Application received by commissioner of customs:** October 9, 1990.

**Docket number:** 90-186. **Applicant:** Cornell University Medical Center, 1300 York Avenue, New York, NY 10021. **Instrument:** Electron Microscope, Model CM 10/PC. **Manufacturer:** N.V. Philips, The Netherlands. **Intended use:** The instrument will be used in research



related to brain functions involved in neurological disorders focusing on the following morphological studies: (1) Synaptology and plasticity; (2) localization of the beta adrenergic receptor mRNA; (3) transmitter-specific interactions of mesolimbic and nigrostriatal dopaminergic neurons; (4) cellular interactions between neurons in circumventricular organs; (5) circuitry of the septo-hippocampal pathway that may be implicated in memory dysfunctions; (6) synaptic interactions associated with central control of the circulation through the nuclei of the solitary tracts, rostral ventrolateral medulla, and spinal cord; (7) local neural control of cerebral blood flow and metabolism; and (8) neuropathological changes caused by accumulation of excessive hydrogen ions. *Application received by commissioner of customs* October 9.

*Docket number: 90-187. Applicant:* University of Michigan, Department of Anatomy and Cell Biology, Medical Science II Building, Ann Arbor, MI 48109-0616. *Instrument:* Electron Microscope, Model CM 10/PC. *Manufacturer:* N.V. Philips, The Netherlands. *Intended use:* The instrument will be used to study biological materials in medical research projects, specifically the inner ears of guinea pigs, muscles of rats, epithelial cells from frog urinary bladder, mouse and chick embryos and goldfish eyes. In all cases the instrument will be used to study the ultrastructure of these tissues. *Application received by commissioner of customs:* October 9, 1990.

*Docket number: 90-188. Applicant:* The Ohio State University, Campus Chemical Instrument Center, 176 West 19th Avenue, Columbus, OH 43210. *Instrument:* Mass Spectrometer System, Model MAT 900. *Manufacturer:* Finnigan MAT Corp., West Germany. *Intended use:* The instrument will be used for the analysis of chemical compounds isolated or synthesized by faculty research groups. Experiments will include but are not limited to accurate-mass measurement to determine chemical formula, gas- or liquid- chromatography/mass spectrometry, fast ion bombardment for detection of involatile and/or polar species, chemical ionization and the extensive software needed for routine interpretation thereof. *Application received by commissioner of customs:* October 10, 1990.

*Docket number: 90-189. Applicant:* Cedars-Sinai Medical Center, 8700 Beverly Boulevard, Los Angeles, CA 90048. *Instrument:* Electron Microscope, Model EM 902A PC/ST/G45.

*Manufacturer:* Carl Zeiss, West Germany. *Intended use:* The instrument will be used for studies of the following which depend upon ultrastructural examinations and/or fine structural localization of cellular constituents: (1) Ultrastructural abnormalities in the skeletal dysplasias, (2) human bone organ culture and human chondrocytes; (3) osteoporosis and bone cell function, (4) distribution of lead in bone and kidney and (5) matrix vesicles and calcification. *Application received by commissioner of customs:* October 15, 1990.

*Docket number: 90-190. Applicant:* University of California, San Diego, 8655 Production Avenue, San Diego, CA 92121. *Instrument:* AMG Streamer 37/43. *Manufacturer:* AMG Ateliers Mecaniques, France. *Intended use:* The instrument will be used at sea to study the structure and character of the sediments and rocks beneath the sea floor. Experiments will consist of seismic stratigraphic and age studies, surveys to determine where the most productive sites are for a Deep Ocean Drilling Program. *Application received by commissioner of customs:* October 16, 1990.

*Docket number: 90-191. Applicant:* San Diego State University, Department of Geological Sciences, San Diego, CA 92182. *Instrument:* Mass Spectrometer, Model VG Sector 54. *Manufacturer:* Vacuum Generators, Inc., United Kingdom. *Intended use:* The instrument will be used for the precise determination of isotope ratios of elements such as U, Th, Pb, Pu, Rb, Sr, Nd, Sm, Ca, K, Cs, Ba, and B in geologic materials (rock and minerals). In addition, the instrument will be used in the courses Isotope Geochemistry and Groundwater Geochemistry to train undergraduate and graduate students in isotope geochemical research including radiometric age dating, isotope tracer studies and isotope dilution studies. *Application received by commissioner of customs:* October 24, 1990.

*Docket number: 90-192. Applicant:* University of Southern California, University Park Campus VHE 506, Los Angeles, CA 90089-0241. *Instrument:* Electron Microscope, Model EM-002B with Accessories. *Manufacturer:* Akashi Beam Technology, Japan. *Intended use:* The instrument will be used for the study of a range of semiconductor materials relevant to optoelectronic and photonic devices including III-V and II-VI semiconductors. The experiments involve high resolution lattice imaging of atomic planes in optoelectronic and photonic device structures made of ultrathin films of the materials.

*Application received by commissioner of customs:* October 24, 1990.

*Docket number: 90-193. Applicant:* NOAA-PMEL-MSRD, 7600 Sandpoint Way N.E., Seattle, WA 98915. *Instrument:* (3) Loran-C Drifting Buoys, SIEMAC Ltd., Canada. *Intended use:* The instruments will be deployed in the water and allowed to drift with the currents while their locations relative to each other are collected aboard the ship. They will be recovered after two days and redeployed. *Application received by commissioner of customs:* October 24, 1990.

Frank W. Creel,  
Director, Statutory Import Programs Staff.

[FR Doc. 90-28950 Filed 11-14-90; 8:45 am]

BILLING CODE 3510-DS-M

#### University of Wyoming, et al., Consolidated Decision of Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

*Docket Number: 90-115. Applicant:* University of Wyoming, Laramie, WY 82071. *Instrument:* System Upgrade for Mass Spectrometer. *Manufacturer:* VG Isotopes Ltd., United Kingdom. *Intended use:* See notice at 55 FR 30953, July 30, 1990.

*Docket Number: 90-116. Applicant:* University of Miami, Coral Gables, FL 33124. *Instrument:* Digital Controller and Hall Effect Transducer Set with Accessories and DTL. *Manufacturer:* GDS Instruments, Ltd., United Kingdom. *Intended use:* See notice at 55 FR 32675, August 10, 1990.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments, for the purposes for which the instruments are intended to be used, is being manufactured in the United States. *Reasons:* These are compatible accessories for instruments previously imported for the use of the applicants. In each case, the instrument and accessory were made by the same manufacturer.



We know of no domestic accessories which can be readily adapted to the previously imported instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90-26951 Filed 11-14-90; 8:45 am]

BILLING CODE 3510-DS-M

## National Institute of Standards and Technology

[Docket No. 900830-0230]

### Standard Reference Data Grants and Cooperative Agreements

**AGENCY:** National Institute of Standards and Technology, Commerce.

**ACTION:** Announcing NIST Standard Reference Data Grants and Cooperative Agreements.

**SUMMARY:** The purpose of this notice is to inform potential applicants that the Standard Reference Data Program (SRD) of the National Institute of Standards and Technology is continuing its program for grants and cooperative agreements to provide critically evaluated data to the scientific and engineering communities (Catalog of Federal Domestic Assistance No. 11-603 "National Standard Reference Data System (NSRDS)"). This year, the areas of priority are crystallographic and electron diffraction, thermochemistry, thermophysics of industrial fluids, analytical chemistry, molecular spectroscopy, and surface characterization. Typical data projects are supported on the order of \$30,000 to \$100,000 annual funding. In many cases, however, no funds are transferred and the parties work together cooperatively, each funding its own work.

#### CLOSING DATE FOR APPLICATIONS:

Proposals must be received no later than close of business December 31, 1990.

**ADDRESSES:** Applicants must submit one signed original plus two (2) copies of the proposal along with the Grant Application, revised Standard Form 424 to: Standard Reference Data Program, Attention: Dr. Malcolm W. Chase, National Institute of Standards and Technology, A323 Physics Building, Gaithersburg, MD 20899.

**FOR FURTHER INFORMATION CONTACT:** John Rumble, (301) 975-2203.

**ELIGIBILITY:** Academic institutions, Non-Federal agencies, and independent and industrial laboratories.

**SUPPLEMENTARY INFORMATION:** As authorized by section 16 of the Act of March 3, 1901, as amended (15 U.S.C. 290) and by the Standard Reference Data Act of 1968 (Pub. L. 90-396), the NIST Standard Reference Data (SRD)

program conducts directly and through grants and cooperative agreements a program to collect, evaluate, and disseminate scientific and technical data. The emphasis of the program is on data evaluation, that is, the assessment of the quality and reliability of data by examining their documentation, their adherence to known scientific and engineering laws and principles, and the comparison to related data.

Because of the high cost of data programs and as authorized by the Standard Reference Data Act, the SRD Program looks to maximize cooperation between all interested groups. Many SRD projects involve cooperative efforts, thereby maximizing the output from limited resources.

Generally speaking, a Grant provides financial assistance to the recipient and no substantial NIST involvement in the data project except for dissemination of the final results. A Cooperative Agreement for data projects involves a close working relationship between a group of NIST experts and the recipient and, in some cases, financial assistance. Cooperative Agreements with SRD are anticipated to run for 3 to 5 years. However, any financial assistance, whether for Grants or for Cooperative Agreements, will be on a yearly basis.

All data work produced under both grants and cooperative agreements are property of the U.S. Government and may qualify for copyright protection as enabled by the Standard Reference Data Act of 1968 (Pub. L. 90-396).

#### Program Objectives

*a. Diffraction Data:* Evaluated diffraction data on organic compounds and surfaces.

*b. Thermodynamic Data:* Evaluated thermochemistry and thermophysics data for elements, organic substances, and industrial fluids.

*c. Surface Characterization Data:* Evaluated data from X-Ray photoelectron spectroscopy and closely related techniques.

*d. Analytical Chemistry Data:* Evaluated data from techniques such as mass spectrometry and NMR spectroscopy.

*e. Molecular Spectroscopy:* Evaluated data for diatomic molecules.

#### Proposal Review Process

All proposals are assigned to the appropriate Program Manager of the programs listed above for review, including internal and external peer review, and recommendations on funding. The following items will be taken into consideration in the Program Manager's recommendation to the Program Chief.

1. The existence or planned existence of a NIST data activity in this area (see Program Objectives above).

2. Previous data experiences of the applicant.

3. The importance to the U.S. industrial scientific and engineering community.

Applicants should allow up to 60 days processing time. Proposals are evaluated for technical merit by at least three professionals from NIST, the Standard Reference Data Program, or technical experts from other government agencies or the data community at large.

#### Evaluation Criteria

	Points
a. Need for data activity	0-10
b. Complementary to existing or planned NIST data activity	0-40
c. Related to priority list for SRD FY91 program	0-50
d. Experience of proposing group with respect to	
i. Previous data evaluation—general	0-10
ii. Previous data evaluation in this area	0-30
iii. Experience in computerized data-bases—general	0-10
iv. Experience in computerized data-bases in this data area	0-30
e. Experience and expertise of personnel	0-20
f. Need for data evaluation and computerized dissemination by industry	0-30
g. Feasibility of completing project in proposed time	0-20
Total	0-250

#### Paperwork Reduction Act

The SF-424 mentioned in this notice is subject to the requirements of the Paperwork Reduction Act and it has been approved by OMB under Control No. 0348-0006.

#### Additional Requirements

All applicants must submit a certification ensuring that employees of the applicant are prohibited from engaging in the unlawful manufacturing, distribution, dispensing, possession or use of a controlled substance at the work site as required by the regulations implementing the Drug-Free Workplace of 1988, 15 CFR part 26, subpart F.

Applicants are subject to Government-wide Debarment and Suspension (nonprocurement) requirements as stated in 15 CFR part 26.

Section 319 of Public Law 101-121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with



a specific contract, grant, or loan. A "Certification of Contracts, Grants, Loans, and Cooperative Agreements" and SF-LLL, "Disclosure of Lobbying Activities" (if applicable), is required to be submitted with any application.

Applicants are reminded that a false statement may be grounds for denial or termination of funds and grounds for possible punishment by fine or imprisonment.

Any recipient/applicant who has an outstanding indebtedness to the Federal Government will not receive a new award until the debt is paid or arrangements satisfactory to the Department are made to pay the debt.

Awards under the Standard Reference Data Program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal Assistance Awards.

Applicants are reminded of the applicability of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Dated: November 8, 1990.

John Lyons,  
Director.

[FR Doc. 90-26919 Filed 11-14-90; 8:45 am]

BILLING CODE 3510-13-M

## Patent and Trademark Office

[Docket No. 901183-0283]

### Request for Information Regarding Process Patent Amendments Made by the Omnibus Trade and Competitiveness Act of 1988

**AGENCY:** Patent and Trademark Office, Commerce.

**ACTION:** Request for information from domestic industries regarding possible adverse effects of the process patent amendments made by the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-417).

**DATES:** Comments must be received on or before January 31, 1991.

**FOR FURTHER INFORMATION CONTACT:** Documents and questions should be submitted to Michael K. Kirk, Assistant Commissioner for External Affairs, Box 4, Patent and Trademark Office, Washington, DC 20231. Telephone at (703) 557-3065.

**SUPPLEMENTARY INFORMATION:** The Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-417) was enacted on August 23, 1988. Among other things, the Act amended title 35, United States Code, to extend the protection of a process patented in the United States also to products made by that process. As a consequence,

whoever without authority imports into the United States, or sells or uses in this country, a product made by a patented process shall be liable as an infringer, if the importation, sale or use occurs during the term of the process patent. (Sections 9002 and 9003 of Pub. L. 100-417). The effective date of that amendment was February 23, 1989.

Section 9007 of the Act requires the Secretary of Commerce to report to the Congress, at the end of each one-year period from the effective date of the above amendments, on the effect of these amendments on those domestic industries that submitted complaints during such period, alleging that their legitimate sources of supply have been adversely affected. Such reports must be submitted for five successive years.

The second report from the Secretary of Commerce to the Congress will be submitted on February 23, 1991, covering the preceding one-year period. Accordingly, it is requested that domestic industries wishing their complaints reflected in the Secretary's report ensure that any submission on this subject is received by the Department of Commerce not later than January 31, 1991.

Dated: October 31, 1990.

Harry F. Manbeck, Jr.,  
Assistant Secretary and Commissioner of  
Patents and Trademarks.

[FR Doc. 90-26965 Filed 11-14-90; 8:45 am]

BILLING CODE 3510-16-M

## COMMODITY FUTURES TRADING COMMISSION

### Regulatory Coordination Advisory Committee Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2 10(a) and 41 CFR 101-6.1015(b), that the Commodity Futures Trading Commission's Regulatory Coordination Advisory Committee will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, DC headquarters located at room 532, 2033 K Street NW., Washington, DC 20581, on November 28, 1990, beginning at 2 p.m. and lasting until 5 p.m. The agenda will consist of:

#### Agenda

1. Report to the Committee from the Working Group on Speculative Limits.
2. Report to the Committee from the Working Group on Regulation of Managed Accounts.
3. Presentation of IOSCO Working Party 5 report comparing international regulatory schemes.

4. Follow-up on Commission activities concerning technical questions raised at last meeting:

(a) Report on transfer of account procedures;

(b) Report on CPO/CTA performance record disclosure—Adjustments for Additions and Withdrawals to Computations of Rate of Return in Performance Records of CPOs and CTAs; and

(c) Status report on pending approval of foreign equity index derivative products—Sydney Futures Exchange, Limited All Ordinaries Share Price Index Futures Contract.

5. Other issues for Committee consideration; additional working groups; timing of next meeting; other Committee business.

The purpose of this meeting is to solicit the views of the Committee on the agenda matters listed above. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of advising the Commission on ways to improve coordination and to facilitate cross market transactions, including cross border transactions. The purposes and objectives of the Advisory Committee are more fully set forth in the April 16, 1990 Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Chairman Wendy L. Gramm, is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Regulatory Coordination Advisory Committee, c/o Ms. Kate Hathaway, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Ms. Hathaway in writing to the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC on November 9, 1990.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90-26987 Filed 11-13-90; 8:45 am]

BILLING CODE 6351-01-M



**DEPARTMENT OF DEFENSE****Office of the Secretary of Defense****Women in Services Advisory Committee; Meeting**

**AGENCY:** Defense Advisory Committee on Women in the Services (DACOWITS).

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to Public Law 92-463, notice is hereby given of a forthcoming meeting of the Executive Committee of the (DACOWITS). The purpose of the meeting is to review unresolved resolutions made by the committee at the DACOWITS 1990 Fall Conference; review the Subcommittee Issue Agenda; and discuss issues relevant to women in the Services. All meeting sessions will be open to the public.

**DATE:** December 10, 1990, 9:30 a.m.-4 p.m.

**ADDRESS:** SECDEF Conference room 3E869, The Pentagon, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Colonel Mary C. Pruitt, Director, DACOWITS and Military Women Matters, OASD (Force Management and Personnel), The Pentagon, room 3D769, Washington, DC 20301-4000; telephone (202) 697-2122.

Dated: November 9, 1990.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 90-26938 Filed 11-14-90; 8:45 am]

BILLING CODE 3910-01-M

**Department of the Air Force****USAF Scientific Advisory Board; Meeting**

The USAF Scientific Advisory Board's Ad Hoc Committee on the Extension of Dormant Munitions Storage Life and Insensitive High Explosives Research and Development will meet on 18-19 December 1990, from 8 a.m. to 5 p.m. at the ANSER Corp., 1215 Jefferson Davis Highway, Arlington, VA.

The purpose of this meeting is to gather information in support of the SAB study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4).

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 90-26866 Filed 11-14-90; 8:45 am]

BILLING CODE 3910-01-M

**Department of the Army****Availability of the Draft Environmental Impact Statement (DEIS) for the Disposal of Chemical Munitions Stored at Anniston Army Depot, Alabama**

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of availability.

**SUMMARY:** This announces the Notice of Availability of the DEIS on the potential impact of the construction and operation of the proposed chemical agent demilitarization facility at Anniston Army Depot, Alabama. The proposed facility will be used to demilitarize all chemical agents and munitions currently stored at the Anniston Army Depot. The DEIS examines the potential impacts of on-site incineration, alternative sites within Anniston Army Depot and the "no-action" alternative. The "no-action" alternative is considered to be deferral of demilitarization with continued storage of the agents and munitions at Anniston Army Depot.

**SUPPLEMENTARY INFORMATION:** In its Record of Decision (53 FR, No. 38, pp. 5816-5817) for the Final Programmatic Environmental Impact Statement on the Chemical Stockpile Disposal Program, the Department of the Army selected on-site disposal by incineration at all eight chemical munitions storage sites within the continental United States as the method by which it will destroy its lethal chemical stockpile. The Department of the Army published a Notice of Intent on December 1, 1988 (53 FR, No. 231, pp. 48573-48574) which provided notice that, pursuant to the National Environmental Policy Act and implementing regulations, it was preparing a DEIS for the Anniston chemical munitions disposal facility.

The Department of the Army prepared an EIS to assess the site-specific health and environmental impacts of on-site incineration of chemical agents and munitions stored at Anniston Army Depot. The DEIS for Anniston is now available for comment. Copies may be obtained by writing the Program Manager for Chemical Demilitarization, ATTN: SAIL-PMME (Ms. Peggy Thompson), Aberdeen Proving Ground, Maryland 21010-5401. The comments must be received by December 31, 1990, for consideration in the preparation of

the Final Anniston EIS. During the public comment period, a public hearing will be scheduled, if necessary.

**ADDITIONAL INFORMATION:** The Environmental Protection Agency will also publish a Notice of Availability for the DEIS in the Federal Register.

Lewis D. Walker,

*Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I, L&E).*

[FR Doc. 90-26923 Filed 11-14-90; 8:45 am]

BILLING CODE 3710-08-M

**DEPARTMENT OF ENERGY****Advisory Committee on Nuclear Facility Safety; Open Meeting**

Pursuant to the provisions of the Federal Advisory Committee Act (Pub.L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

*Name:* Advisory Committee on Nuclear Facility Safety.

*Date and Time:* Thursday, November 29, 1990, 8 p.m. to 10 p.m.; Friday, November 30, 1990, 1 p.m. to 5 p.m.

*Place:* U.S. Department of Energy, Savannah River Site—Main Entrance, Building 703-41A, Rainbow Conference Rooms, Aiken, South Carolina 29808.

*Contact:* Wallace R. Kornack, Executive Director, ACNFS, AC-21, 1000 Independence Ave., SW., Washington, DC 20585, 202/586-1770.

*Purpose of the Committee:* The Committee was established to provide the Secretary of Energy with advice and recommendations concerning the safety of the Department's production and utilization facilities, as defined in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

**TENTATIVE AGENDA**

*November 29, 1990*

8 p.m. Public Comment Session  
10 p.m. Meeting Adjourned

*November 30, 1990*

1 p.m. Chairman Ahearne opens meeting;  
Selected Safety Issues at the Savannah River Site; Subcommittee Reports;  
Committee Business  
5 p.m. Meeting Ends.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Wallace Kornack at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is



empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

**Transcripts:** The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, IE-190, Forrestal Building, 1000 Independence Ave., SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on November 9, 1990.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 90-26956 Filed 11-14-90; 8:45 am]

BILLING CODE 6450-01-M

### National Environmental Policy Act Guidelines, Revocation

**AGENCY:** Office of Environment, Safety and Health, DOE.

**ACTION:** Notice of proposed revocation and request for public comment.

**SUMMARY:** The Department of Energy (DOE) today proposes revocation of its National Environmental Policy Act (NEPA) Guidelines, as amended, as a technical, conforming change to take effect when new regulations codifying a modified version of the NEPA Guidelines take effect. DOE proposed such a modified version in a notice of proposed rulemaking at 55 FR 46444 (November 2, 1990).

**DATES:** Written comments on this notice should be submitted on or before December 17, 1990, to ensure their consideration. The public hearing to be held on December 5, 1990, with regard to the notice of proposed rulemaking published at 55 FR 46444 (November 2, 1990) will also apply to this notice.

**ADDRESSES:** Written comments on this notice and requests to speak at the public hearing should be submitted to Carol M. Borgstrom, Director, Office of NEPA Oversight, EH-25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, or may be hand-delivered to the same address on workdays between the hours of 8 a.m. and 4:30 p.m.

The public hearing will be held at the U.S. Department of Energy, room GJ-015, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with the procedures set forth in the notice of proposed rulemaking published at 55 FR 46444 (November 2, 1990).

**FOR FURTHER INFORMATION CONTACT:** Carol M. Borgstrom, Director, Office of

NEPA Oversight, EH-25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4600.

**SUPPLEMENTARY INFORMATION:** DOE originally published its NEPA Guidelines on March 28, 1980, at 45 FR 20694. These Guidelines implemented the procedural provisions of the NEPA as required by the Council of Environmental Quality regulations, 40 CFR parts 1500-1508.

The NEPA Guidelines were subsequently revised a number of times and were republished in their entirety on December 15, 1987 at 52 FR 47662. The Guidelines were further amended on March 27, 1989 at 54 FR 12474 and on September 7, 1990, at 55 FR 37174.

As indicated above, on November 2, 1990, DOE proposed to codify a modified version of the Guidelines as regulations, 55 FR 46444 (November 2, 1990). When DOE issues a notice of final rulemaking based on that proposal, it will be necessary to issue a notice revoking the existing Guidelines in order to terminate their prospective legal effect as of the date that the new regulations take effect. Today's notice proposes that revocation for public comment.

It is hereby proposed to revoke the DOE NEPA Guidelines, as amended, 52 FR 47662 (December 15, 1987), 54 FR 12474 (March 27, 1989), and 55 FR 37174 (September 7, 1990).

Issued in Washington, DC, November 7, 1990.

Paul L. Ziemer,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 90-26957 Filed 11-14-90; 8:45 am]

BILLING CODE 6450-01-M

### Federal Energy Regulatory Commission

[Docket No. TM91-6-28-000]

#### Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

November 7, 1990.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on November 2, 1990 tendered for filing the tariff sheets to its FERC Gas Tariff, Original Volume No. 2 listed on the appendix attached on the filing.

These revised tariff sheets reflect changes to Rate schedules TS-4 and TS-1 of Panhandle's FERC gas Tariff, Original Volume No. 2 to reflect (1) ANR Pipeline Company's (ANR) effective transportation charges in ANR's Docket Nos. RP86-169-000, *et al.*, RP89-161-000,

*et al.*, CP89-2210-001, TA90-1-48-001, RP86-105 and RP87-25, (2) ANR's effective take-or-pay surcharges in ANR's Docket Nos. RP89-45-007, RP89-127-003, RP89-193-003, TM89-2-48-000, RP90-18-000, RP89-161-000, RP90-46-000, RP90-3-48-000, CP89-2210-04, and RP91-6-000, (3) ANR Storage Company's (ANR Storage) settlement storage charges to Panhandle effective June 1, 1990 as approved by the Commission's Letter Order dated July 9, 1990 in ANR Storage's Docket No. RP89-168-000, and (4) Panhandle's currently effective Annual Charge Adjustments (ACA) effective October 1, 1987, October 1, 1988, October 1, 1989, and proposed effective October 1, 1990 in Docket Nos. RP87-94-002 & 000, TM89-1-28-000, TM90-1-28-000 and TM91-1-28-001, respectively.

Panhandle proposes that the tariff sheets listed on the attached Appendix become effective November 1, 1986, July 1, 1987, October 1, 1987, March 1, 1988, April 1, 1988, July 1, 1988, October 1, 1988, May 1, 1989, July 10, 1989, October 1, 1989, November 1, 1989, November 25, 1989, December 27, 1989, February 1, 1990, May 1, 1990, June 1, 1990, October 1, 1990, November 1, 1990 and November 5, 1990, respectively. Panhandle requests waiver of Section 154.22 of the Commission's Regulations.

Panhandle states that copies of this filing have been sent to ANR Storage and ANR, to the various Panhandle storage customers under Rate Schedules TS-4 and TS-5, and to the respective state regulatory commissions.

Any person desiring to be heard or to protests said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 285.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 15, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protests parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26882 Filed 11-14-90; 8:45 am]

BILLING CODE 6717-01-M



**Issuance of Decisions and Orders by the Office of Hearings and Appeals During the Week of September 24 through September 28, 1990**

During the week of September 24 through September 28, 1990, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

**Appeals**

*Donald J. Anderson, 9/28/90, LFA-0071*

Donald J. Anderson filed an Appeal from a determination issued by the Albuquerque Operations Office (AOO) in which AOO withheld the name of the author of a memorandum Mr. Anderson requested in his Freedom of Information Act (FOIA) request. In considering the Appeal, the DOE found that the justification for withholding the requested information was adequate under the FOIA. The Appeal was, therefore, denied.

*Jim Cooper, 9/26/90, LFA-0070*

Jim Cooper (Cooper) filed an appeal from a denial by the Albuquerque Operations Office (AOO) of the Department of Energy (DOE) of a Request for Information which he had submitted under the Freedom of Information Act (FOIA). Cooper had requested information concerning the registration of automobiles at the Kirtland Air Force Base in the name of Alvin J. Campbell, Sheriff, Bernalillo County, New Mexico. AOO withheld the information on the grounds that disclosure would constitute an invasion of personal privacy. In considering the Appeal, the DOE found that AOO had failed to address, as a preliminary matter, the existence of a privacy interest in the requested information. Accordingly, Cooper's appeal was granted, and the matter was remanded either for release of the requested information or for issuance of a formal determination which clearly explains the basis for withholding the information.

**Remedial Order**

*Highway Oil Co., Inc., Economic Regulatory Administration, 9/24/90, HRO-0123, KRD-0031, LRZ-0008, LRZ-0007*

The DOE issued a Decision and Order concerning a Proposed Remedial Order (PRO) issued by the Economic Regulatory Administration (ERA) to Highway Oil Company, Inc. (Highway).

Highway filed a Motion to Dismiss based on the fact that relevant documents that were used to support ERA's findings in the PRO had been withheld by ERA. Under the circumstances, the DOE determined that the PRO should be remanded to ERA for a new determination based on only those overcharges which can be supported by workpapers that have been provided to Highway. Further, a Motion for Discovery filed by Highway and a Motion to Strike filed by ERA were dismissed as moot, as was the Motion to Dismiss.

**Request for Exception**

*Virgin Islands Energy Office, 9/26/90, LEE-0017*

The Virgin Islands Energy Office (VIEO) filed an Application for Exception from the Institutional Conservation Program (ICP), 10 CFR part 455.13(d), which provides that ICP grant funds not allocated by a state or territory within a fiscal year cannot be retained by that state and carried over to the subsequent fiscal year. The VIEO stated that, as a result of the severe damage caused by Hurricane Hugo in September 1989, it is unable to complete its grant application or allocate its Fiscal Year 1990 funds within the required time period. The VIEO plans on using its 1990 ICP funds to replace inefficient lighting fixtures in its schools and hospitals with new, energy-efficient fixtures, but stated that it is unable to allocate funds for lighting replacement until repairs funded by the Federal Emergency Management Agency and the Department of Education to lighting fixtures which were damaged by Hurricane Hugo are completed in October 1990. In considering the request, the DOE found that the VIEO was suffering a gross inequity from the requirement that it complete its ICP allocation by the end of Fiscal Year 1990, and determined that some form of exception relief is warranted. However, because the situation which the Virgin Islands faces is only temporary, the DOE also determined that only limited exception relief is necessary to alleviate the gross inequity imposed by the ICP requirement. Consequently, the VIEO will not be required to complete its FY 1990 grant application until January 31, 1991, and will not be required to obligate its Cycle 12 funds until April 30, 1991.

**Refund Applications**

*Empire Sand & Gravel Co. et al., 9/26/90, RF272-31835 et al., RD272-31835 et al.*

The DOE issued a Decision and Order concerning applications for refunds filed

in the subpart V crude oil proceeding by four asphalt manufacturing and road construction firms. A group of States and Territories (States) objected to the applications on the grounds that the applicants were able to pass through increased petroleum costs to consumers during the consent order period. The only evidence submitted by the States was an affidavit, by an economist stating that, in general, road construction firms were able to pass through increased petroleum costs. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicants should receive a refund. However, one of the applicants was unable to determine what percentage of its contracts were covered by cost escalation agreements and, consequently, the DOE reduced this applicant's total volume claim by the amount of its liquid asphalt gallonage claim. The sum of the refunds granted in this Decision is \$69,485.

*Shell Oil Co./Dow Chemical Co., 9/26/90, RF315-3175, RF315-3176, RF315-7541, RF315-8856.*

The DOE issued a Decision and Order granting four Applications for Refund filed by Dow Chemical Co. in the Shell Oil Company special refund proceeding. Dow was granted a refund under the presumption for end-users after it verified that it had not used the petroleum products it purchased to produce other covered products. The total refund granted in the Decision was \$79,526 (\$61,341 principal plus \$18,185 in interest).

*Texaco Inc./Camino Texaco et al., 9/24/90, RF-321-37 et al.*

The DOE issued a Decision and Order concerning four Applications for Refund filed in the Texaco Inc. special refund proceeding. Each of the applicants purchased directly from Texaco and was a reseller whose allocable share is less than \$10,000. Two applicants disagreed with their Texaco purchase volume printouts and submitted alternative monthly gallonage figures which they requested that the DOE accept in lieu of Texaco's figures. The remaining two applicants relied solely on monthly schedules of purchases. All of the applicants in this Decision based their monthly gallonage figures on regularly kept business records from the consent order period and documented that they were in business during the time period for which they requested refunds. Accordingly, the DOE accepted the applicants' volume information and determined that each applicant was eligible to receive a refund equal to its



full allocable share. The sum of the refunds granted in this Decision is \$18,702 (\$15,820 principal and \$2,882 interest).

*Texaco Inc./Gruver Texaco Wholesale et al., 9/27/90, RF321-321 et al.*

The DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning Applications for Refund filed by a jobber, a consignee that was converted to a jobber during the consent order period, and six retail outlets that were supplied exclusively by the jobber or the consignee/jobber. All eight applicants were owned by the same individual. The DOE noted that consignees are entitled to a refund on the same basis as resellers in order to compensate for possible allocation violations during the refund period, and that the purchase volumes of affiliated firms should be combined in order to calculate one allocable share and in order to determine the appropriate presumption level. The applicants stated that they accepted the presumption of injury; accordingly they were not required to demonstrate injury. Under the mid-level presumption of injury, the jobber and the consignee/jobber were granted a refund of \$11,822 (\$10,000 principal and \$1,822 interest). The applications by the six retail outlets were denied, because applicants are entitled to only one refund for the same refined product purchases and the volumes purchased by the retail outlets were included in calculating the refund amount due the jobber and consignee/jobber.

*Vickers Energy Corp. et al./Oklahoma, 9/24/90, RM1-216 et al., RO31-559*

The State of Oklahoma requested permission to use a total of \$254,733.30 in second-stage funds in two restitutionary programs. These programs would be funded by \$1,085, exclusively interest, allocated to the State from the Worldwide Energy Corporation consent order monies; and \$253,648.30 in second-stage monies from various sources which were previously disbursed to the State, but not expended on approved programs. The State will utilize \$108,000 of this funding on the Low-Income Weatherization Assistance Program to aid Oklahoma's low-income individuals in weatherizing their homes. Oklahoma will devote \$146,733.30 to the Elderly and Handicapped Transportation Program, under which residents will be transported to health, shopping, and recreation facilities throughout the State. Oklahoma's second-stage Application for Refund and Motions for Modification were approved in full because the two programs should provide the restitutionary benefits of

reduced fuel consumption and expanded transportation services, respectively, to the State's consumers of petroleum products in a timely manner.

#### Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Case name	Case No.	Date
Donald M. Downey, Jr. Lahabra Chevron Service Center.	RF272-58553 ...	9/25/90
Exxon Corp./Brooklyn Union Gas Company.	RF307-5707 .....	9/24/90
Exxon Corp./Sartain's Exxon Service, Steve Hunt Exxon, Dan's Harbor Exxon.	RF307-4476 .....	9/26/90
	RF307-5706 .....	
	RF307-9855 .....	
Gulf Oil Corp./Public Service of New Hampshire.	RF300-9605 .....	9/25/90
Shell Oil Co./Indiana Harbor Belt Railroad.	RF315-10049 ...	9/27/90
Texaco Inc./Allen's Texaco.	RF321-746 .....	9/28/90
Texaco Inc./Auto Service & Supply Co., Inc. et al.	RF321-8286 .....	9/27/90
	RF321-1520 .....	
Texaco Inc./Doyle Distributing, Inc.	RF321-1792 .....	9/28/90
Texaco Inc./Eastside Texaco.	RF321-4041 .....	9/28/90
	RF321-1011 .....	
	RF321-4599 .....	
Texaco Inc./Flick's Texaco.	RF321-1883 .....	9/28/90
	RF321-6372 .....	
Texaco Inc./Glaub's Texaco Service.	RF321-1558 .....	9/28/90
Texaco Inc./J.M. Bernard's Garage Inc. et al.	RF321-7679 .....	9/27/90
	RF321-2234 .....	
Texaco Inc./Mission Center Texaco et al.	RF321-372 .....	9/27/90
Texaco Inc./Russell K. Kuehl.	RF321-9679 .....	9/26/90
Texaco Inc./Star-Tex Oil Inc., et al.	RF321-3218 .....	9/25/90
William E. Baker .....	RC272-97 .....	9/28/90

#### Dismissals

The following submissions were dismissed:

Name	Case No.
Allen Boulevard Shell .....	RF315-5547
Barg's Shell Service .....	RF315-138
Barron's Welding and Dozer Work .....	RF315-5550
Boulevard Exxon .....	RF307-9038
Clint's Texaco .....	RF321-5000
Cornelius Shell .....	RF315-5546
Des Moines Asphalt .....	RF272-42154
Henry Serpa & Sons .....	RF321-8029
Hill City Oil Co., Inc. ....	RF315-298
Hillsboro Shell .....	RF315-5543
Jenny Freight .....	RF272-70301
Jimmy L. Gregory .....	RF315-5549
Lamm's Exxon .....	RF307-8770
Lea Street Texaco .....	RF321-8393
Morse's Exxon Service .....	RF307-8876
Norwood Service Corp. ....	RF315-5655

Name	Case No.
Pine Cash Grocery .....	RF315-5551
Portage Oil Company .....	RF315-275
Progress Shell .....	RF315-5542
Shop and Tote .....	RF315-5548
T.V. Highway Shell .....	RF315-5545
Valley Shell .....	RF315-5544
Vern's Texaco .....	RF321-1451

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: November 8, 1990.

**George B. Breznay,**  
Director, Office of Hearings and Appeals.  
[FR Doc. 90-26958 Filed 11-14-90; 8:45 am]

BILLING CODE 6450-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-3860-7]

#### Agency Information Collection Activities Under OMB Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before December 17, 1990.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at EPA, (202) 382-2740.

#### SUPPLEMENTARY INFORMATION:

#### Office of Solid Waste and Emergency Response

**Title:** Accidental Release Information Program (EPA ICR# 1331.04; OMB# 2050-0065). This ICR requests renewal of the existing clearance.

**Abstract:** The Accidental Release Information Program (ARIP) applies trigger criteria (death/injury, large



releases above a multiple of the CERCLA reportable quantity, frequent releases from the same facility, and releases of chemicals listed as extremely hazardous substances under SARA § 302) to select for additional reporting certain hazardous substance releases reported to the National Response Center, the EPA or the U.S. Coast Guard. Fixed facilities responsible for the selected release are required to complete and return a questionnaire which asks for more detailed information on the causes and consequences of accidental releases, as well as actions that have been or could have been effective in preventing them from occurring.

The collected information will serve to support a range of chemical accident prevention and preparedness efforts involving industry, local and state government, and EPA regions and headquarters.

**Burden Statement:** The estimated public reporting burden for this collection of information is 24.5 hours per respondent. This estimate includes time to read the instructions, gather existing information, and prepare and submit the final questionnaire.

**Respondents:** Owners/operators of fixed facilities with accidental releases meeting trigger criteria.

**Estimated No. of Respondents:** 1425.

**Estimated Total Annual Burden on Respondents:** 34,912 hours.

**Frequency of Collection:** On occasion, when releases meet specific triggers.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460

and  
Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

Dated: November 8, 1990.

Paul Lapsley, Director,  
Regulatory Management Division.

[PR Doc. 90-26932 Filed 11-14-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3860-4; LAG 551000]

### Proposed NPDES General Permit for Domestic Wastewater Discharges in the State of Louisiana

AGENCY: Environmental Protection Agency.

**ACTION:** Notice of draft general NPDES permit.

**SUMMARY:** The Director now proposes to issue a General Permit for privately owned and publicly owned sewage treatment facilities in the State of Louisiana with design flows of 2,500 gallons per day (gpd) (0.0025 gpd) and greater, but less than 25,000 gpd (0.025 gpd) who treat domestic wastes. When issued, this General Permit will establish effluent limitations, prohibitions, and other conditions on discharges. This Draft General Permit is based on the administrative record available for public review in Region 6 of the Environmental Protection Agency (EPA). The fact sheet sets forth the principal facts and the significant factual, legal and policy questions considered in the development of the Draft General Permit. A copy of the Draft General Permit is available for public review at EPA Region 6 and at the Louisiana Department of Environmental Quality.

**DATES:** Comment Period: Comments must be received by December 14, 1990.

**ADDRESSES:** Mail comments to: U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Documents may also be reviewed at the Louisiana Department of Environmental Quality, 625 Fourth Street, 9th Floor, Baton Rouge, Louisiana 70804-4091.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ellen Caldwell, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733, Telephone: (214) 655-7190.

#### I. Supplemental Information and Fact Sheet

##### A. General Permit

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) Permit. In the past, such permits have generally been issued to individual dischargers. However, EPA's regulations authorize the issuance of General Permits to categories of discharges (40 CFR 122.28). EPA may issue a single, General Permit to a category of point sources located in the same geographic area whose discharges warrant similar pollution control measures. The Director (with delegation to the Water Management Division Director) is authorized to issue a General Permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;

2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Director, are more appropriately controlled under a General Permit than under individual permits.

B. Any discharger desiring coverage under the General Permit must submit a (1) Notice of Intent, (2) a General Information Form 1 (EPA Form 3510-1) and (3) an EPA Application Form For Facilities That Do Not Discharge Process Wastewater (EPA Form 3510-2E), or Standard Form A-Municipal (EPA Form 7550-22) for publicly owned treatment works.

C. Violations of any conditions of a General Permit constitutes a violation of the Act and subjects the discharger to the penalties specified in Section 309 of the Act. Any owner or operator authorized by a final General Permit may be excluded from coverage by applying for an individual permit. This request may be made by submitting a NPDES permit application, together with reasons supporting the request. New facilities, that apply, may be covered under this General Permit unless they apply for an individual permit using the appropriate application.

D. The Director may require any facility that is applying to discharge under a final General Permit to apply for and obtain an individual permit. In addition, any interested person may petition the Director to take this action. However, an individual permit will not be issued for any point source covered by a General Permit unless it can be demonstrated that inclusion under a General Permit is clearly inappropriate.

E. The Director may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b)(2). These criteria include:

1. The discharge(s) is a significant contributor of pollution;
2. The discharger is not in compliance with the terms and conditions of the General Permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent limitation guidelines are subsequently promulgated for the point sources covered by the General Permit;
5. A Water Quality Management Plan containing requirements applicable to such point sources is approved; or



6. The requirements listed in 40 CFR 122.28(a) and identified in the previous paragraphs are not met.

## II. Conditions in the General Permit

### A. Expiration Date

This NPDES General Permit shall expire five (5) years from the effective date of the permit or for coverage of a facility under the General Permit upon termination of discharge and closure of the facility.

### B. Water Quality Based Effluent Limitations

1. The Louisiana Department of Environmental Quality, Office of Water Resources, has promulgated area wide policies which update the Water Quality Management Plan for all domestic wastewater treatment facilities which discharge to U.S. waters in the State of Louisiana.

2. Minimum levels of effluent quality attainable by secondary treatment are established by 40 CFR 133.102. The State of Louisiana has established more stringent requirements for all facilities with anticipated flows of 2,500 gpd (0.0025 mgd), or greater, but less than 25,000 gpd (0.025 MGD). This General Permit is based on facility design flows in accordance with 40 CFR 122.44. Conventional pollutants are controlled at the following levels: 30 mg/1 30-day average and 45 mg/1 daily maximum for BOD<sub>5</sub> and TSS respectively. Disinfection and 15 mg/1 Daily Max for Oil and Grease is required by the State of Louisiana. The pH limits within the range of 6.0 and 9.0 standard units are based on 40 CFR 133.102(c).

### C. Monitoring Requirements

All facilities operating under conditions of this General Permit are required to monitor each parameter once every three months by grab sample. However, if the daily maximum limit in any sample is exceeded then the monitoring frequency increases to once per month. This increased frequency shall continue until a sample demonstrates a value less than or equal to the daily maximum.

### D. The Nature of Discharges From Privately Owned Sources

All facilities operating under conditions of this General Permit will be required to document the domestic nature of the discharge. The sources of wastewater discharges from treatment plants are domestic sewage amendable to biological treatment.

### E. Geographic Areas and Covered Facilities

The General Permit will authorize discharges from facilities within the State of Louisiana, to various storm sewers, tributaries, stream segments and river basins. The permit will be applicable only to facilities which have direct discharges to "waters of the United States" as defined in 40 CFR 122.2 and are therefore subject to the requirements of sections 301 and 402 of the Act. It does not apply to facilities that are specifically listed in the Louisiana Water Quality Management Plan with previously designated limitations.

### F. Privately Owned Discharges

The General Permit will be applicable to facilities with discharges of domestic waste only. Toxic or priority pollutants shall not be present in the discharges. The privately owned facilities covered by this permit include multi-family residences, trailer parks, restaurants, entertainment centers, hospitals, shopping centers, motels and office buildings. The nature of effluent from these facilities involves the same type of operations, discharge of the same types of wastewater, and the same effluent limitations and monitoring requirements. Therefore, these facilities are more appropriately controlled by a General Permit.

### G. Publicly Owned Facilities

The General Permit will be applicable to facilities with discharges of domestic waste only. Toxic or priority pollutants shall not be present in the discharges. Publicly owned facilities covered include cities, towns, boroughs, counties, parishes, districts, associations, or other public bodies created under State law and having jurisdiction over disposal of sewage, or an Indian tribe, or Indian tribal organizations, or a designated and approved management agency under section 308 of the CWA located within the State of Louisiana. The nature of effluent from these facilities involves the same type of operations, discharge of the same types of wastewater, and the same effluent limitations and monitoring requirements. Therefore, these facilities are more appropriately controlled by a General Permit.

## III. Other Legal Requirements

### A. State Certification

Under section 401(a)(1) of the Act, EPA may not issue a NPDES permit until the State in which the discharge will originate, grants or waives certification to ensure compliance with appropriate

requirements of the Act and State law, including water quality standards. Region VI has requested the State of Louisiana to certify this Draft General Permit.

### B. Water Quality Standards

Section 301(b)(1)(C) of the Act requires that NPDES permits contain limitations necessary to meet water quality standards established pursuant to State law or regulation or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to the Act. In accordance with the Statewide Sanitary Effluent Limitations Policy, as established in the Louisiana Water Quality Management Plan, the maximum 30-day average load allowed by this General Permit for either BOD or TSS is 6.2 lb/day. Therefore, no water quality standard violations are expected.

### C. Duty To Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request, to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. Reports shall be supplied as specified by the permit.

### D. Planned Changes

The permittee shall give notice to the Director within 30 days of any planned physical alterations or additions to the permitted facility or in the nature or characteristic of the discharge.

### E. Endangered Species Act

The Endangered Species Act and its implementing regulations (50 CFR part 402) require that each Federal Agency shall ensure that any of their actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modifications of their critical habitats. To ensure protection of endangered or threatened species and their habitats toxic materials and priority pollutants are prohibited by this permit. Discharges that are permitted are for treated domestic wastewater only. Based on the terms, conditions, and limitations of this General Permit, EPA has concluded that the discharges authorized by this general permit are not likely to adversely affect any endangered or threatened species nor adversely affect their critical habitat. The State of Louisiana has a similar general permit with an effective date of March 16, 1989



covering the same facilities for which this permit is written. EPA will provide copies of the Draft General Permit and Fact Sheet to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service prior to issuing the General Permit and will request their concurrence on EPA's not likely to adversely affect determination.

#### F. The Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) and its implementing regulations (15 CFR part 930) require that any Federally licensed or permitted activity affecting the coastal zone of a State with an approved Coastal Zone Management Program (CZMP) be consistent with the CZMP (section 307(c)(3)(A) subpart D). The State of Louisiana has a CZMP that has been approved by the National Oceanic and Atmospheric Administration (NOAA). The Region has reviewed Louisiana's Coastal Use Guidelines and believe that this draft permit action is consistent with the intent of those guidelines. A copy of the draft permit along with a consistency determination will be submitted to Louisiana for a consistency determination.

#### G. The Marine Protection, Research and Sanctuaries Act

The Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. In addition the MPRSA establishes the Marine Sanctuaries Program, implemented by NOAA, which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological or aesthetic values. Section 302(i) of MPRSA requires that the Secretary of Commerce, after designation of a marine sanctuary, consult with other Federal agencies, and issue necessary regulations to control any activities permitted within the boundaries of the marine sanctuary. It provides that no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purpose of the marine sanctuaries program and/or can be carried out within its promulgated regulations. There are presently no existing marine sanctuaries in the coastal waters of Louisiana.

#### IV. Administrative Requirements

##### A. Economic Impact (Executive Order 12291)

The Office of Management and Budget (OMB) has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order.

##### B. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this Draft General Permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of this permit have already been approved by the Office of Management and Budget in submissions made for the NPDES permit program under the provisions of the Clean Water Act. In addition, the General Permit will eliminate or reduce, for the Agency, the time consuming process of drafting and issuing individual permits.

##### C. The Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general NPDES permit will have a positive benefit on a substantial number of small entities. Moreover, it will reduce a significant administrative burden on regulated sources.

Joe D. Winkle,

Acting Regional Administrator, Region 6.

[FR Doc. 90-26930 Filed 11-14-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3860-5]

#### Draft General NPDES Permit for Domestic Wastewater Discharges in the State of Louisiana: LAG556000

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Notice of Draft General NPDES Permit.

**SUMMARY:** The Director now proposes to issue a General Permit for publicly and privately owned sewage treatment facilities, in the State of Louisiana, with design flows of 25,000 gallons per day (gpd) (0.025 mgd) and greater, but less than 50,000 gpd (0.050 mgd) who treat domestic wastewater. When issued, this General Permit will establish effluent limitations, prohibitions, and other conditions on discharges. This Draft General Permit is based on the administrative record available for public review in Region 6 of the Environmental Protection Agency (EPA).

The fact sheet sets forth the principal facts and the significant factual, legal and policy questions considered in the development of the Draft General Permit. A copy of the Draft General Permit is available for public review at EPA Region 6 and at the Louisiana Department of Environmental Quality.

**DATES:** *Comment Period:* Comments must be received by December 17, 1990.

**ADDRESSES:** Mail comments to: U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Documents may also be reviewed at the Louisiana Department of Environmental Quality, 625 Fourth Street, 9th floor, Baton Rouge, Louisiana 70804-4091.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ellen Caldwell, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2723. Telephone: (214) 655-7190.

#### I. Supplemental Information and Fact Sheet

##### A. General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) Permit. In the past, such permits have generally been issued to individual dischargers. However, EPA's regulations authorize the issuance of General Permits to categories of dischargers (40 CFR 122.28). EPA may issue a single, General Permit to a category of point sources located in the same geographic area whose discharges warrant similar pollution control measures. The Regional Administrator (with delegation to the Water Management Division Director) is authorized to issue a General Permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Director, are more appropriately controlled under a General Permit than under individual permits.

**B. Any discharger desiring coverage under the General Permit must submit a (1) a Notice of Intent, (2) General Information Form 1 (EPA Form 3510-1), and (3) an EPA Application Form For Facilities That Do Not Discharge Process Wastewater (EPA Form 3510-2E) (Private Domestic), or Standard**



*Form A-Municipal (EPA Form 7550-22) for publicly owned treatment works.*

C. Violations of any condition of a General Permit constitutes a violation of the Act and subjects the discharger to the penalties specified in section 309 of the Act. Any owner or operator authorized by a final General Permit may be excluded from coverage by applying for an individual permit. This request may be made by submitting a NPDES permit application, together with reasons supporting the request. New facilities, that apply, may be covered under this General Permit unless they apply for an individual permit using the appropriate application.

D. The Director may require any facility that is applying to discharge under a final General Permit to apply for and obtain an individual permit. In addition, any interested person may petition the Director to take this action. However, an individual permit will not be issued for any point source covered by a General Permit unless it can be demonstrated that inclusion under a General Permit is clearly inappropriate.

E. The Director may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b)(2). These criteria include:

1. The discharge(s) is a significant contributor of pollution;
2. The discharger is not in compliance with the terms and conditions of the General Permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent limitation guidelines are subsequently promulgated for the point sources covered by the General Permit;
5. A Water Quality Management Plan containing requirements applicable to such point sources is approved; or
6. The requirements listed in 40 CFR 122.28(a) and identified in the previous paragraphs are not met.

## II. Conditions in the Draft General Permit

### A. Expiration Date

This NPDES General Permit shall expire five (5) years from the effective date of the permit or for coverage of a facility under the General Permit upon termination of discharge and closure of the facility.

### B. Water Quality Based Effluent Limitations

1. The Louisiana Department of Environmental Quality, Office of Water Resources, has promulgated area wide policies which update the Water Quality

Management Plan for all domestic waste treatment facilities which discharge to U.S. waters in the State of Louisiana.

2. Minimum levels of effluent quality attainable by secondary treatment are established by 40 CFR 133.102. The State of Louisiana has established more stringent requirements for all facilities with anticipated flows of 25,000 gpd (0.025 mgd), or greater, but less than 50,000 gpd (0.050 mgd). This General Permit is based on facility design flows in accordance with 40 CFR 122.44. Conventional pollutants are controlled at the following levels: 20 mg/l 30-day average and 30 mg/l daily maximum for BOD<sub>5</sub> and TSS respectively. Disinfection and 15 mg/l Daily Max. for Oil and Grease is required by the State of Louisiana. The pH limits within the range of 6.0 and 9.0 standard units are based on 40 CFR 133.102(c).

### C. Monitoring Requirements

All facilities operating under conditions of this General Permit are required to monitor each parameter once per month by grab sample. However, if the daily maximum limit in any sample is exceeded then the monitoring frequency increases to once per week. This increased frequency shall continue until a sample demonstrates a value less than or equal to the daily maximum.

### D. The Nature of Discharges From Privately Owned Sources

Facilities operating under conditions of this permit will be required to document the domestic nature of the discharge. The sources of wastewater discharges from privately owned treatment plants are domestic sewage amenable to biological treatment.

### E. Geographic Areas and Covered Facilities

The General Permit will authorize discharges from facilities within the State of Louisiana, to various storm sewers, tributaries, stream segments and river basins. The permit will be applicable only to facilities which have direct discharges to "waters of the United States" as defined in 40 CFR 122.2 and are therefore subject to the requirements of sections 301 and 402 of the Act. It does not apply to facilities that are specifically listed in the Louisiana Water Quality Management Plan with previously designated limitations.

### F. Privately Owned Discharges

The General Permit will be applicable to facilities with discharges of domestic waste only. Toxic or priority pollutants shall not be present in the discharges.

The privately owned facilities covered by this permit include multi-family residences, trailer parks, restaurants, entertainment centers, hospitals, shopping centers, motels and office buildings. The nature of effluent from these facilities involves the same type of operations, discharge of the same types of wastewater, and the same effluent limitations and monitoring requirements. Therefore, these facilities are more appropriately controlled by a General Permit.

### G. Publicly Owned Facilities

The General Permit will be applicable to facilities with discharges of domestic waste only. Toxic or priority pollutants shall not be present in the discharges. Publicly owned facilities include cities, towns, boroughs, counties, parishes, districts, associations, or other public bodies created under State law and having jurisdiction over disposal of sewage, or an Indian tribe, or Indian tribal organizations, or a designated and approved management agency under section 308 of the CWA located within the State of Louisiana. Therefore, these facilities are more appropriately controlled by a General Permit.

## III. Other Legal Requirements

### A. State Certification

Under section 401(a)(1) of the Act, EPA may not issue a NPDES permit until the State in which the discharge will originate, grants or waives certification to ensure compliance with appropriate requirements of the Act and State law, including water quality standards. Region VI has requested the State of Louisiana to certify this Draft General Permit.

### B. Water Quality Standards

Section 301(b)(1)(C) of the Act requires that NPDES permits contain limitations necessary to meet water quality standards established pursuant to State law or regulation or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to the Act. The maximum 30-day average load allowed by this General Permit for either BOD or TSS is 8.3 lb/day, in accordance with the Statewide Sanitary Effluent Limitations Policy established in the Louisiana Water Quality Management Plan. Therefore, no water quality standard violations are expected.

### C. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may



request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage of this General Permit, or to determine compliance with this General Permit. Reports shall be supplied as specified by this General Permit.

#### D. Planned Changes

The permittee shall give notice to the Director within 30 days of any planned physical alterations or additions to the permitted facility or in the nature or characteristic of the discharge.

#### E. Endangered Species Act

The Endangered Species Act and its implementing regulations (50 CFR part 402) require that each Federal Agency shall ensure that any of their actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of their critical habitats. To ensure protection of endangered or threatened species and their habitats this general permit prohibits toxic or priority pollutants in the effluent discharges. Discharges that are permitted include treated domestic wastewater only. Based on the terms, conditions, and limitations of this General Permit, EPA has concluded that the discharges authorized by this general permit are not likely to adversely affect any endangered or threatened species nor adversely affect their critical habitat. The State of Louisiana has a similar general permit with an effective date of July 31, 1989 covering the same facilities for which this permit is written. EPA will provide copies of the Draft General Permit and fact sheet to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service prior to issuing the General Permit and will request their concurrence on EPA's not likely to adversely affect determination.

#### F. The Coastal Zone Management Act

The Coastal Management Act (CZMA) and its implementing regulations (15 CFR part 930) require that any Federally licensed or permitted activity affecting the coastal zone of a State with an approved Coastal Zone Management Program (CZMP) be consistent with the CZMP (Section 307 (c)(3)(A) supart D). The State of Louisiana has a CZMP that has been approved by the National Oceanic and Atmospheric Administration (NOAA). The Region has reviewed Louisiana's Coastal Use Guidelines and believe that this draft permit action is consistent with the intent of those guidelines. A copy of the draft permit and fact sheet

will be submitted to the State of Louisiana for a consistency determination.

#### G. The Marine Protection, Research and Sanctuaries Act

The Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. In addition to MPRSA establishes the Marine Sanctuaries Program, implemented by NOAA, which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological or aesthetic values. Section 302(i) of MPRSA requires that the Secretary of Commerce, after designation of a marine sanctuary, consult with other Federal agencies, and issue necessary regulations to control any activities permitted within the boundaries of the marine sanctuary. It provides that no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purpose of the marine sanctuaries program and/or can be carried out within its promulgated regulations. There are presently no existing marine sanctuaries in the coastal waters of Louisiana.

#### III. Administrative Requirements

##### A. Economic Impact (Executive Order 12291)

The Office of Management and Budget (OMB) has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order.

##### B. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this Draft General Permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of this permit have already been approved by the Office of Management and Budget in submissions made for the NPDES permit program under the provisions of the Clean Water Act. In addition, the General Permit will eliminate or reduce, for the Agency, the time consuming process of drafting and issuing individual permits.

##### C. The Regulatory Flexibility Act

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 USC 605(b), that this general NPDES

permit will have a positive benefit on a substantial number of small entities. Moreover, it will reduce a significant administrative burden on regulated sources.

Dated: September 4, 1990.

Joe D. Winkle,

Acting Regional Administrator, Region 6.

[FR Doc. 90-26931 Filed 11-14-90; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59897; FRL 3840-2]

#### Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). In the *Federal Register* of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 16 such PMN(s) and provides a summary of each.

##### DATES: Close of Review Periods:

Y 91-16, November 1, 1990.

Y 91-17, November 6, 1990.

Y 91-18, 91-19, 91-20, 91-21, November 12, 1990.

Y 91-22, November 14, 1990.

Y 91-23, 91-24, 91-25, 91-26, 91-27, 91-28, 91-29, 91-30, November 12, 1990.

Y 91-31, November 14, 1990.

##### FOR FURTHER INFORMATION CONTACT:

Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-545, 401 M Street, SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above



address between 8:00 a.m. and noon, and 1:00 p.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

**Y 91-16**

*Manufacturer.* Confidential.

*Chemical.* (G) Pentaerythritol ester or esters of linseed fatty acid, sebacic acid succinic anhydride with some polyesters of same.

*Use/Production.* (G) Ink vehicle. Prod. range: Confidential.

**Y 91-17**

*Manufacturer.* Confidential.

*Chemical.* (G) Polyester resin.

*Use/Production.* (G) An additive used in the plastics industry. Prod. range: Confidential.

**Y 91-18**

*Manufacturer.* Confidential.

*Chemical.* (S) Neopentyl glycol; propylene glycol; isophthalic acid; maleic anhydride.

*Use/Production.* (S) Polymer for coating resin. Prod. range: Confidential.

**Y 91-19**

*Manufacturer.* Air Products and Chemicals, Inc.

*Chemical.* (G) Styrene-acrylic acid polymer salt.

*Use/Production.* (G) Surfactant and dispersant aid. Prod. range: Confidential.

**Y 91-20**

*Manufacturer.* Air Products and Chemicals, Inc.

*Chemical.* (G) Styrene-acrylic acid polymer salt.

*Use/Production.* (G) Surfactant and dispersant aid. Prod. range: Confidential.

**Y 91-21**

*Manufacturer.* Air Products and Chemicals, Inc.

*Chemical.* (G) Styrene-acrylic acid polymer salt.

*Use/Production.* (G) Surfactant and dispersant aid. Prod. range: Confidential.

**Y 91-22**

*Manufacturer.* Air Products and Chemicals, Inc.

*Chemical.* (G) Styrene-acrylic acid polymer salt.

*Use/Production.* (G) Surfactant and dispersant aid. Prod. range: Confidential.

**Y 91-23**

*Manufacturer.* Air Products and Chemicals, Inc.

*Chemical.* (G) Styrene-acrylic acid polymer salt.

*Use/Production.* (G) Surfactant and dispersant aid. Prod. range: Confidential.

**Y 91-24**

*Manufacturer.* Air Products and Chemicals, Inc.

*Chemical.* (G) Styrene-acrylic acid polymer salt.

*Use/Production.* (G) Polymer modifiers. Prod. range: Confidential.

**Y 91-25**

*Manufacturer.* Air Products and Chemicals, Inc.

*Chemical.* (G) Styrene-acrylic acid polymer salt.

*Use/Production.* (G) Polymer modifiers. Prod. range: Confidential.

**Y 91-26**

*Manufacturer.* Air Products and Chemicals, Inc.

*Chemical.* (G) Styrene-acrylic acid polymer salt.

*Use/Production.* (G) Polymer modifiers. Prod. range: Confidential.

**Y 91-27**

*Manufacturer.* Air Products and Chemicals, Inc.

*Chemical.* (G) Styrene-acrylic acid polymer salt.

*Use/Production.* (G) Polymer modifiers. Prod. range: Confidential.

**Y 91-28**

*Manufacturer.* Air Products and Chemicals, Inc.

*Chemical.* (G) Styrene-acrylic acid polymer salt.

*Use/Production.* (G) Polymer modifiers. Prod. range: Confidential.

**Y 91-29**

*Manufacturer.* Air Products and Chemicals, Inc.

*Chemical.* (G) Styrene-acrylic acid polymer salt.

*Use/Production.* (G) Polymer modifiers. Prod. range: Confidential.

**Y 91-30**

*Manufacturer.* Air Products and Chemicals, Inc.

*Chemical.* (G) Styrene-acrylic acid polymer salt.

*Use/Production.* (G) Polymer modifiers. Prod. range: Confidential.



Y 91-31

*Manufacturer.* Confidential.  
*Chemical.* (G) Diepoxide polyol.  
*Use/Production.* (G) Dehydration agent. Prod. range: Confidential.

Dated: November 8, 1990.

Steve Newburg-Rinn,  
 Acting Director, Information Management  
 Division, Office of Toxic Substances.

[FR Doc. 90-26937 Filed 11-14-90; 8:45 am]

BILLING CODE 6560-50-F

[OPP-30309; FRL 3837-6]

### Valent U.S.A. Corp.; Applications to Register Pesticide Products

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**DATES:** Comment by December 17, 1990.

**ADDRESSES:** By mail submit comments identified by the document control number [OPP-30309] and the registration/file number to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Attention PM 23, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 246, Attention PM 23, Registration Division (H7505C), Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

**FOR FURTHER INFORMATION CONTACT:** PM 23, Joanne I. Miller, Rm. 237, CM #2, (703-557-1830).

**SUPPLEMENTARY INFORMATION:** EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

### I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 239-EANG. Applicant: Valent U.S.A. Corporation, 1333 N. California Blvd., Walnut Creek, CA 94596-8025. Product name: Chevron Clethodim Technical. Herbicide. Active ingredient: Clethodim (E)-2-[1-[[[3-chloro-2-propenyl]oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one at 83.5 percent. Proposed classification/Use: General. For terrestrial food use on cotton and soybeans. Type registration: Conditional. (PM 23)

2. File Symbol: 59639-G. Applicant: Valent U.S.A. Corporation, 1333 N. California Blvd., Walnut Creek, CA 94596-8025. Product name: Select Herbicide. Herbicide. Active ingredient: Clethodim (E)-2-[1-[[[3-chloro-2-propenyl]oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one at 25 percent. Proposed classification/Use: General. For control of annual and perennial grasses in cotton and soybeans. Type registration: Conditional. (PM 23)

3. File Symbol: 59639-E. Applicant: Valent U.S.A. Corporation. Product name: Clethodim Technical. Herbicide. Active ingredient: Clethodim (E)-2-[1-[[[3-chloro-2-propenyl]oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one at 83.5 percent. Proposed classification/Use: General. For terrestrial food use on cotton and soybeans. Type registration: Conditional. (PM 23)

Notice of approval or denial of an application to register a pesticide product will be announced in the *Federal Register*. The procedure for requesting data will be given in the *Federal Register* if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address

provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703-557-3262), to ensure that the file is available on the date of intended visit.

**Authority:** 7 U.S.C. 136.

Dated: October 22, 1990.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 90-26936 Filed 11-14-90; 8:45 am]

BILLING CODE 6560-50-F

### FEDERAL COMMUNICATIONS COMMISSION

#### Public Information Collection Requirement Submitted to Office of Management and Budget for Review

November 5, 1990

The Federal Communications Commission has submitted the following information collection requirement on OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Bruce McConnell, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

**OMB Number:** 3060-0188.

**Title:** Section 75.3550, Requests for new or modified call sign assignments.

**Action:** Extension.

**Respondents:** Non-profit institutions and businesses or other for-profit (including small businesses).

**Frequency of Response:** On occasion.

**Estimated Annual Burden:** 1,400 responses; .667 hours average burden per response; 934 hours total annual burden.

**Needs and Uses:** Section 73.3550 requires that a licensee, permittee, or assignee of transferee file a letter with the Commission when requesting a new or modified call sign. The data is used by FCC staff to ensure that the call sign requested is not already in use by another station and that the proper "K" or "W" designation is used in accordance with the station location (east or west of the Mississippi River).



Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-26914 Filed 11-14-90; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 90-479; FCC 90-330]

# **Applications, Hearings, Determinations, etc.; Quests, Inc.**

**AGENCY:** Federal Communications Commission.

**ACTION:** Order to show cause and hearing designation order.

**SUMMARY:** This action is an Order to show cause to determine if Quests, Inc., licensee of Radio Station WAST(AM), Ashtabula, Ohio, violated §§ 73.1740(a)(4) and 73.1750 of the Commission's Rules by remaining silent without authority, and if so, whether the license for that station should be revoked.

**EFFECTIVE DATE:** Upon publication in the Federal Register.

**ADDRESSES:** Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Ben Halprin, Enforcement Division, Mass Media Bureau, (202) 632-3860.

## **SUPPLEMENTARY INFORMATION:**

### **Order to Show Cause and Hearing Designation Order**

In the Matter of Quests, Inc., Linesville, Pennsylvania, Licensee of Radio Station WAST(AM), Ashtabula, Ohio, Order to Show Cause Why the License of Station WAST(AM), Ashtabula, Ohio, Should Not Be Revoked.

Adopted: October 4, 1990; Released: November 7, 1990.

By the Commission:

1. The Commission has before it for consideration: (a) The license of Quests, Inc., for daytime only Radio Station WAST(AM), Ashtabula, Ohio; and, (b) the results of the Commission's investigation into WAST(AM)'s unauthorized silent status.

2. WAST(AM), Ashtabula, Ohio, has been off the air since 1981. From 1981 until 1984 the licensee had permission to be silent. The station has been off the air since 1984 without permission. Due, in part, to a civil suit judgment against the licensee, it no longer possesses the station's real or broadcast related property. The discord that has been demonstrated between the majority and minority shareholders in the licensee have apparently left the licensee unable to engage in a transfer to an entity willing and able to restore service. Since the licensee has been off the air for an extended period of time, lacks the equipment to operate the station, does not have Commission permission to remain off the air, and has not turned in its license, it is in apparent violation of

§§ 73.1740(a)(4) and 73.1750 and the Commission's Rules.<sup>1</sup>

3. Accordingly, *It is ordered*, That pursuant to section 312(a)(3), (4) and (c) of the Communications Act of 1934, as amended, Quests, Inc., is Directed to Show Cause why the license for Radio Station WAST(AM), Ashtabula, OH, should not be Revoked, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

(a) To determine whether Quests, Inc., violated §§ 73.1740(a)(4) and/or 73.1750 of the Commission's Rules.

(b) To determine, in light of the evidence adduced under the foregoing issue, whether Quests, Inc., possesses the requisite qualifications to be or to remain licensee of the captioned radio station.<sup>2</sup>

4. *It is further ordered*, That the Chief, Mass Media Bureau, is directed to serve upon Quests, Inc., within thirty (30) days of the release of this Order, a Bill of Particulars with respect to Issues (a) and (b) above.

5. *It is further ordered*, That pursuant to section 312(d) of the Communications Act of 1934, as amended, both the burden of proceeding with the evidence and the burden of proof shall be upon the Mass Media Bureau as to both issues.

6. *It is further ordered*, That to avail itself of the opportunity to be heard, the licensee, pursuant to § 1.91(c) of the Commission's Rules, in person or by attorney, shall file with the Commission within thirty (30) days of the receipt of the Order to Show Cause a written appearance stating that it will appear at the hearing and present evidence on the matters specified in the Order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement denying or seeking to mitigate or justify the conduct may be submitted within thirty (30) days of the

<sup>1</sup> Section 73.1740(a)(4) provides:

In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, DC not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary.

Section 73.1750 provides:

The licensee of each station shall notify the FCC in Washington, DC of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, DC for cancellation.

<sup>2</sup> We note that WAST(AM) has had action on a license renewal application deferred since December 1, 1981. Should the instant action be decided against the licensee, that deferred renewal application will be dismissed as moot.

receipt of the Order to Show Cause. See § 1.92(a) of the Commission's Rules. In the event the right to a hearing is waived, the presiding officer, or the Chief Administrative Law Judge if no presiding officer has been designated, will terminate the hearing proceeding and certify the case to the Commission in the regular course of business and an appropriate Order will be entered. See § 1.92 (c) and (d) of the Commission's Rules.<sup>3</sup>

7. *It is further ordered*, That if it is determined that the hearing record does not warrant an Order revoking the license for Station WAST(AM), Ashtabula, OH, it shall be determined if Quests, Inc., willfully or repeatedly violated § 73.1740(a)(4) or § 73.1750 of the Commission's Rules. If so, it shall also be determined whether an Order for Forfeiture shall be issued pursuant to section 503(b) of the Communications Act of 1934, as amended, in an amount up to \$250,000 for the willful or repeated violations of § 73.1740(a)(4) and/or § 73.1750 of the Commission's Rules.

8. *It is further ordered*, That, in connection with the possible forfeiture liability noted above, this document constitutes notice pursuant to section 503(b)(3) of the Communications Act of 1934, as amended. The Commission has determined that in every case designated for hearing involving the potential revocation of a station license, for alleged violations which also come within the purview of section 503(b) of the Communications Act of 1934, as amended, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress that the inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

9. *It is further ordered*, That the Chief, Mass Media Bureau, send a copy of this Order by *Certified Mail-Return Receipt Requested*, to: Quests, Inc., Radio Station WAST(AM), P.O. Box 307, Linesville, PA 16424.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-26908 Filed 11-14-90; 8:45 am]

BILLING CODE 6712-01-M

## **FEDERAL MARITIME COMMISSION**

### **Agreement(s) Filed**

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the

<sup>3</sup> The Commission has delegated authority for cases such as this to the Mass Media Bureau. See *In the Matter of Radio Northwest Broadcasting Company*, 4 FCC Rcd 596 n. 3 (1989).



Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No.: 224-200438.*

*Title:* Baltimore Independent Marine Terminal Forum Marine Terminal Discussion Agreement.

*Parties:* I.T.O. Corporation of Baltimore, Ceres Corporation.

*Synopsis:* The Agreement establishes the Baltimore Independent Marine Terminal Forum ("BIMTF"), a group of private, independent marine container terminal operators. Under the terms of the Agreement, the parties will be authorized to meet, discuss and agree upon: (1) Rules, regulations, terms and conditions of service for the loading and unloading of containers onto and from cars, trucks, barges and vessels; and (2) other marine terminal matters pertaining to the receipt, handling and/or delivery of containerized cargo at the public wharves of the Port of Baltimore ("Port") and/or pertaining to the operation of independent marine container terminals in the Port. Membership in BIMTF is open to any private party that is not a subsidiary of an ocean common carrier and that provides marine terminal container services in connection with common carriers by water in the foreign commerce of the United States at a public wharf within the Port. All actions taken under the Agreement shall be by a majority vote.

By Order of The Federal Maritime Commission.

Dated: November 8, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-26872 Filed 11-14-90; 8:45 am]

BILLING CODE 6730-01-M

#### Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to

the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No.: 217-010420-003.*

*Title:* American-Flag Common Carrier Charter Agreement.

*Parties:* American President Lines, Ltd. Lykes Bros. Steamship Co., Inc., Sea-Land Service, Inc., United States Lines, Inc., Waterman Steamship Corporation.

*Synopsis:* The proposed amendment would delete Lykes Bros. Steamship Co., Inc., United States Lines, Inc. and Waterman Steamship Corporation as parties to the Agreement. It would also make other nonsubstantive changes.

*Agreement No.: 202-010689-040.*

*Title:* Transpacific Westbound Rate Agreement.

*Parties:* American President Lines, Ltd., Hanjin Container Lines, Ltd., Hyundai Merchant Marine Co., Ltd., Kawasaki Kisen Kaisha, Ltd., A.P. Moller-Maersk Line, Mitsui O.S.K. Lines, Ltd., Neptune Orient Lines, Ltd., Nippon Liner System, Nippon Yusen Kaisha, Ltd., Sea-Land Service, Inc.

*Synopsis:* The proposed amendment would amend guidelines for taking follow-up independent actions by allowing a party to give notice to the manager not earlier than seven days after the original notice is given and it could increase the monetary value of the rate.

*Agreement No.: 203-010977-011.*

*Title:* Hispaniola Discussion Agreement.

*Parties:* United States Atlantic and Gulf/Hispaniola Steamship Freight Association, United States/Dominican Republic Freight Association, Zim Israel Navigation Co., U.S.A. Tecmarine Incorporated d/b/a/ Tecmarine Lines, Seaboard Marine Ltd., Tropical Shipping and Construction Co. Ltd., Antillean Marine Shipping Corporation.

*Synopsis:* The proposed amendment would add a clause in Article 5 to authorize direct communication prior to and during any meeting among individual carrier members of a conference party and independent carrier parties.

*Agreement No.: 203-011038-006.*

*Title:* Southeastern Caribbean Discussion Agreement.

*Parties:* United States Atlantic and Gulf/Southeastern Caribbean Conference, Trailer Marine Transport

Corporation, Tecmarine Line, Inc., Bernuth Lines, North American Caribbean Line Ltd., Blue Caribe Line.

*Synopsis:* The proposed amendment would add a clause in Article 5 to authorize direct communication prior to and during any meeting among individual carrier members of a conference party and independent carrier parties.

*Agreement No.: 232-011253-001.*

*Title:* Deppe/Lykes Reciprocal Space Charter and Coordinated Sailing Agreement.

*Parties:* Lykes Bro. Steamship Co., Inc., Deppe Linie GmbH & Co.

*Synopsis:* The proposed amendment would expand the geographic scope of the Agreement to include service to the Mediterranean. It would also reflect a change in the maximum vessel capacity allowed because of the expansion of the scope.

By Order of the Federal Maritime Commission.

Dated: November 8, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-26873 Filed 11-14-90; 8:45 am]

BILLING CODE 6730-01-M

#### Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

AEL Specialist, Inc., 2210 Goldsmith Lane, Louisville, KY 40218. Officers: Judy A. Matthews, President/Director, George E. Mercker, Director/Secretary/Treasurer, Robert L. Hawkins, Stockholder, Paul E. Schmitt, Stockholder

Royal Flight Enterprises, Inc. dba Royal Sea, Services, 6100 N.W. 84th Ave., Miami, FL 33166. Officers: George N. Pappas, President, Christopher L. Pappas, Vice President, Nancy Pappas, Vice President

Ambassador International Ltd., 4600 Eisenhower Ave., Alexandria, VA 22304. Officer: Robert S. Matthews, President



Transco Ltd., Inc., 4707 Orange Drive, Ft. Lauderdale, FL 33314. Officer: Gerhard Walk, President

Advantage Forwarding Inc., 9360 SW 16 Street, Miami, FL 33165. Officers: Antonio M. Menendez, President/Director/Treasurer, Lillian Hernandez, Director/Secretary

Freight Forwarder Inc., 6001 Gulf Freeway, C-135, Houston, TX 77023. Officers: Faber F. McMullen, III, President, Gregory E. Hall, Treasurer/Vice President, James D. Farasey, Secretary/General Manager

Franz Kroll, Inc., 467 North Oak Street, Inglewood, CA 90302. Officers: Detlev-Michael Derogowski, President, Douglas A. Turner, Vice President, Dieter Mesched, Secretary

Bayside International Export, 180 Colusa Court, San Bruno, CA 94066. Officer: German Humberto Soto, Sole Proprietor

Griffin & Associates, Ltd., 1001-P Nicholas Blvd., Elk Grove Village, IL 60007. Officers: Patrick M. Griffin, President, Harry William Dohner, Vice President, Fran Cruz, Vice President, John A. Delaney, Vice President

Walker International Transportation Inc., 182-16 147th Ave., Jamaica, NY 11413. Officers: Emmett Walker, President, Roger Moll, Vice President

By the Federal Maritime Commission.  
Dated: November 8, 1990.

Joseph C. Polking,  
Secretary.

[FR Doc. 90-26874 Filed 11-14-90; 8:45 am]

BILLING CODE 6730-01-M

### Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2928

Name: United Freight Systems, Inc.

Address: 145 Hook Creek Blvd., Valley Stream, NY 11581

Date Revoked: October 11, 1990

Reason: Failed to furnish a valid surety bond.

License Number: 2919

Name: LOH International Movers, Inc.

Address: 114 Adeline St., Oakland, CA 94607

Date Revoked: October 13, 1990

Reason: Failed to furnish a valid surety bond.

License Number: 3367

Name: Border Enterprises, Inc.

Address: 660 Plaza Drive, Suite 2350, Detroit, MI 48226

Date Revoked: October 24, 1990

Reason: Surrendered license voluntarily

Bryant L. VanBrakle,

Acting Director, Bureau of Domestic Regulation.

[FR Doc. 90-26875 Filed 11-14-90; 8:45 am]

BILLING CODE 6730-01-M

### FEDERAL RESERVE SYSTEM

[Docket No. R-0712]

#### Federal Reserve Fees for Check Collection Services; Modification of Criteria for Tiered Pricing Structure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comment.

**SUMMARY:** The Board is requesting comment on proposed modifications to the criteria for offering a tiered pricing structure in the check collection service. The proposed modifications would allow tiered pricing in all collection zones; would allow for more than two tiers where clear cost differences exist to justify them; would eliminate the current requirement to offer a blended (fixed) fee within each collection zone; and would conform the approval process for the implementation of tiered pricing in other Federal Reserve Bank offices to the approval process for other price and service level changes. The proposed modifications would enable Reserve Banks to reflect more precisely their costs to collect checks drawn on paying banks within a given check collection zone. These costs are generally based on the location of, and volume of checks presented to, each endpoint. If adopted, the Board anticipates that the revised criteria would become effective mid-1991.

**DATES:** Comments must be submitted on or before January 25, 1991.

**ADDRESSES:** Comments, which should refer to Docket No. R-0712, may be mailed to the Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Attention: Mr. William W. Wiles, Secretary; or may be delivered to room B-2223 between 8:45 a.m. and 5 p.m. All comments received at the above address will be included in the public file and may be inspected at room B-1122 between 8:45 a.m. and 5:15 p.m.

#### FOR FURTHER INFORMATION CONTACT:

Louise L. Roseman, Assistant Director (202/452-3874) or Nalini Rogers, Senior Financial Services Analyst (202/452-3801) Division of Federal Reserve Bank Operations; for the hearing impaired only: Telecommunications Device for the Deaf, Earnestine Hill or Dorothea Thompson (202/452-3544).

#### SUPPLEMENTARY INFORMATION:

In November 1986, the Board approved a proposal to implement tiered pricing as a permanent price structure for RCPC deposits in the Minneapolis office and country deposits in the Kansas City office, and to establish criteria for the expansion of tiered pricing in other Federal Reserve Bank offices. [51 FR 43470, December 2, 1986.] Under a tiered pricing structure, different fees are assessed depending on whether a check is presented to a high-cost or low-cost endpoint<sup>1</sup> in a given check collection zone.<sup>2</sup> A high-cost endpoint is typically defined as one on which a low volume of checks is drawn, and/or one that is located in a remote location. A low-cost endpoint would typically be presented with high volumes of checks, and/or be centrally located. A small, remotely located paying bank could be included in the low-cost tier if its checks are presented to an intercept processor that also received presentments on behalf of other paying banks and is designated as a low-cost endpoint. Tiered pricing was originally proposed because the costs of clearing checks in collection zones may vary considerably between high- and low-cost endpoints and charging a single average blended fee does not reflect costs as precisely. The criteria that were approved by the Board in 1986 are as follows:

1. Adoption of tiered pricing by any additional Federal Reserve Bank will require approval by the Board.
2. Tiered pricing will be offered as an option to the sender; an alternative fixed per item fee also will be offered for each deposit category.
3. Tiered prices may be used only where clear cost differences exist between groups of items within the collection zone.
4. Tiered prices may be used only where they have the potential to provide net savings for a substantial amount of

<sup>1</sup> An endpoint refers to the physical location designated by the paying bank as the location at which the Federal Reserve is authorized to deliver items drawn on the paying bank for presentment.

<sup>2</sup> A collection zone is a geographic subdivision of a Federal Reserve territory. Each collection zone has a specified availability schedule under which credit will be given for a check deposited for collection at the Federal Reserve office serving that territory.



deposited volume or a substantial number of depositing institutions. In addition, the Board indicated that tiered pricing could be applied to all types of deposits in RCPC and country collection zones and that the number of price tiers within a collection zone should generally be limited to two.

Currently, 48 percent of the RCPC volume in the Minneapolis office and 77 percent of the country volume in the Kansas City office is deposited under the tiered pricing structure. In October 1990, the Board approved the implementation of tiered pricing in seven additional Federal Reserve offices; effective January 1991, tiered RCPC pricing will be implemented in the Lewiston, Philadelphia, Cleveland, Pittsburgh, Cincinnati, and Columbus offices; tiered country pricing will be implemented in the Denver office.

Tiered pricing enables Reserve Banks to establish prices that more precisely reflect their costs to collect checks drawn on paying banks within a given check collection zone. These costs are generally based on the location of, and volume of checks presented to each endpoint. The Board believes that the ability of Reserve Banks to reflect more precisely their costs through the use of tiered pricing would be facilitated if certain modifications were made to the tiered pricing criteria that were approved by the Board in November 1986. The Board is proposing the following modifications to the criteria:

1. *Tiered pricing may be applied to deposits in all collection zones, provided clear cost differences exist.* In 1986, the Board indicated that the application of tiered pricing would be restricted to RCPC and country collection zones. The city zone was not included in the tiered pricing approach because the Federal Reserve believed that, due to the compact geographic nature of a city zone, the cost differences that warrant a tiered approach to pricing would not exist. Analyses of city zones have shown, however, that the volume distribution of checks among endpoints has a significant impact on check processing costs. In certain city zones, approximately 20 percent of the endpoints receive 70 to 90 percent of all checks presented in that zone. The checks drawn on these high-volume city endpoints are less costly to process than are checks drawn on lower-volume city endpoints. In addition, the transportation costs for certain high-volume city endpoints are low or nonexistent.

2. *Reserve Banks may offer more than two price tiers within a collection zone, provided that clear cost differences exist to justify more than two tiers.*

When the Board authorized tiered pricing in 1986, it indicated that, although there were no plans to approve more than two tiers to the price structure at that time, the Board might approve additional tiers and would request public comment on a proposal to expand beyond two tiers if conditions warranted. Currently, in certain collection zones, the variation of processing and transportation costs to collect checks presented at different endpoints could result in a range of costs that can be clearly grouped into more than two cost tiers. The Board anticipates that if this modification were adopted, certain Reserve Bank offices would be able to justify three pricing tiers in a collection zone.

3. *Blended fees will not be offered as an alternative to tiered prices in a collection zone in which tiered pricing has been implemented.* Currently, Reserve Banks are required to offer a blended fee as an option to the tiered pricing structure. This requirement was initially adopted to offer a pricing alternative to small depositors concerned with the potential reconciliation difficulties associated with tiered pricing. Over the past several years, however, Federal Reserve depositors have become accustomed to component pricing, i.e., pricing individual checks within a given deposit at different prices, since this is the billing procedure for the mixed deposit option used primarily by small depositors.<sup>3</sup> The elimination of a blended fee in the tiered pricing structure is consistent with the Federal Reserve's policy of pricing mixed deposits based on the actual composition of checks in a given deposit.

The Board believes that Federal Reserve depositors can easily use the reconciliation procedures related to mixed cash letter deposits to reconcile the component pricing associated with tiered pricing. Experience has shown that billing for tiered pricing has been easily incorporated by the depositors in the Minneapolis and Kansas City offices that have opted for the tiered prices rather than the blended fee. These depositors have not indicated any billing difficulties. (Currently, there are 352 tiered pricing depositors in these offices, which represent 39 percent of all Minneapolis RCPC and Kansas City

country depositors.) Federal Reserve billing statements clearly indicate the breakdown of volume for high- and low-cost tiers with appropriate prices; this detailed information should facilitate reconciliation.

4. *The approval process for implementation of tiered pricing in additional Federal Reserve offices will be the same as the approval process for other routine price and service level changes.* Given the fact that the adoption of a tiered pricing structure would be subject to the specific criteria established by the Board, the Board is proposing to handle approval of tiered pricing structures in additional Federal Reserve offices in the same manner as other routine price and service level changes. The Director of the Division of Federal Reserve Bank Operations, under delegated authority from the Board, has the authority to approve routine price and service level changes.

If the Board were to approve the proposed modifications to the tiered pricing criteria, the revised criteria would be as follows:

1. Tiered prices may be used only where clear cost differences exist between groups of checks within a collection zone.

2. Tiered prices may be used only where they have the potential to provide net savings for a substantial amount of deposited volume or a substantial number of depositing institutions.

3. Tiered pricing may be applied to deposits in all collection zones, provided clear cost differences exist.

4. Reserve Banks may offer more than two price tiers within a collection zone, provided clear cost differences exist to justify more than two tiers.

If adopted, the Board anticipates that the revised criteria would become effective mid-1991. Reserve Bank offices that implemented tiered pricing under the original criteria would eliminate the blended fee option no later than January 1992.

*Competitive Impact Analysis.* All operational and legal changes considered by the Board that have a substantial effect on payments system participants are subject to the competitive impact analysis described in the March 1990 policy statement "The Federal Reserve in the Payments Mechanism." In this analysis, the Board determines whether the proposed change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints or due to a dominant market position of the

<sup>3</sup> Checks deposited in mixed cash letters are charged separate fees depending on whether the check is drawn on a bank in that Reserve Bank office's city, RCPC, or country zone, or a paying bank located in another Federal Reserve territory. Collecting banks are billed for the checks in mixed deposits based on the actual composition of checks in a given mixed cash letter.



Federal Reserve deriving from such legal differences.

The Board believes that the proposed tiered pricing structure will not have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve. Tiered pricing is an accepted structure in the banking industry and is utilized by other providers of check collection services. The proposed modifications will more accurately reflect the cost of collecting checks drawn on a particular paying bank in the price assessed for collecting those checks. A more precise alignment of costs and prices will not adversely affect the ability of other service providers to compete effectively with the Federal Reserve.

Board of Governors of the Federal Reserve System, November 8, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-26900 Filed 11-14-90; 8:45 am]

BILLING CODE 6210-01-M

#### First Western Bancorp, Inc., et al.; Applications To Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage de novo, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would

not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 5, 1990.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Western Bancorp, Inc.*, New Castle, Pennsylvania; to engage de novo through its subsidiary, First Western Trust Services Company, New Castle, Pennsylvania, and thereby engage in trust and fiduciary activities pursuant to § 225.25(b)(3) of the Board's Regulation Y.

2. *First Commonwealth Financial Corporation*, Indiana, Pennsylvania; to engage de novo through its subsidiary, First Commonwealth Trust Company, Indiana, Pennsylvania, in trust company activities pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Mid Town Bancorp, Inc.*, Chicago, Illinois; to engage de novo through its subsidiary, Falcon Financial Advisors, Inc., Chicago, Illinois, in providing bank management consulting advice concerning loan administration to nonaffiliated bank and nonbank depository institutions pursuant to § 225.25(b)(11) of the Board's Regulation Y. These activities will be conducted in Illinois, Indiana, Wisconsin, and Michigan.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Old National Bancorp*, Evansville, Indiana; to engage de novo through its subsidiary, Old National Service Corp., Evansville, Indiana, in providing data processing services to affiliate and correspondent banks pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted within approximately a 150-200 mile radius of Evansville, Indiana.

Board of Governors of the Federal Reserve System, November 8, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-26902 Filed 11-14-90; 8:45 am]

BILLING CODE 6210-01-M

#### Harbor Banc Financial Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 5, 1990.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Harbor Banc Financial Corporation*, Camden, Maine; to become a bank holding company by acquiring 100 percent of the voting shares of Harbor National Bank, Camden, Maine, a de novo bank.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Synovus Financial Corp.*, Columbus, Georgia, and TB&C Bancshares, Inc., Columbus, Georgia; to merge with Sea Island Bankshares, Inc., Statesboro, Georgia, and thereby indirectly acquire Sea Island Bank, Statesboro, Georgia.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *The Moorcroft Corporation*, Moorcroft, Wyoming; to merge with The Newcastle Corporation, Newcastle, Wyoming, and thereby indirectly acquire National Bank of Newcastle, Newcastle, Wyoming.

2. *North Platte Corporation*, Torrington, Wyoming, and Dawson



Corporation, Lexington, Nebraska; to acquire The Moorcroft Corporation, Moorcroft, Wyoming, and thereby indirectly acquire Moorcroft State Bank, Moorcroft, Wyoming, and National Bank of Newcastle, Newcastle, Wyoming.

Board of Governors of the Federal Reserve System, November 8, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-26903 Filed 11-14-90; 8:45 am]

BILLING CODE 6210-01-M

### The Summit Bancorporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such

as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than December 5, 1990.

**A. Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Summit Bancorporation*, Chatham, New Jersey; to acquire S & S Interim Federal Savings Bank, Chatham, New Jersey, and thereby engage in operating a savings association pursuant to § 225.25(b)(9).

**B. Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Valley Financial Services, Inc.*, Mishawaka, Indiana; to acquire Northern Indiana Savings Association, F.A., Chesterton, Indiana, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 8, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-26904 Filed 11-14-90; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 90N-0390]

### Ciba-Geigy Corp., et al.; Withdrawal of Approval of New Drug Applications

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) withdraws approval of 43 new drug applications (NDA's). This action is based on the written requests of the applicants because they no longer market these drug products.

**EFFECTIVE DATES:** December 17, 1990.

**FOR FURTHER INFORMATION CONTACT:** Ron Lyles, Center for Drug Evaluation and Research (HFD-53), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4320.

**SUPPLEMENTARY INFORMATION:** The holders of the NDA's listed below have informed FDA that they no longer market these drug products and have requested that FDA withdraw approval of the applications. The applicants have also, by request, waived their opportunity for a hearing.

NDA No.	Drug name	Applicant's name and address
0-843	Percorten Acetate in Oil Injection	Ciba Pharmaceutical Co., Ciba-Geigy Corp., Summit, NJ 07901.
4-305	Sulfadiazine Tablets	The Upjohn Co., Kalamazoo, MI 49001.
6-044	Diazepam Sodium Tablets and capsules	Abbott Laboratories, Abbott Park, IL 60064.
6-250	Prophylthiouracil Tablets	The Upjohn Co.
7-131	Epsilan Phosphate Sterilized Solution Injection	Adria Laboratories, P.O. Box 16529, Columbus, OH 43216-6529.
8-041	Evans Blue Dye Injection	Parke-Davis, Division of Warner-Lambert, 201 Tabor Rd., Morris Plains, NJ 07950.
8-114	Prantal Tablets	Schering Research, Schering-Plough Corp., 2000 Galloping Hill Rd., Kenilworth, NJ 07033.
8-310	Dramamine Suppositories	G.D. Searle and Co., 4901 Searle Parkway, Skokie, IL 60077.
8-358	Sunswept Cream	Rydelle Labs., Inc., Div. of S.C. Johnson and Sons, Inc., Racine, WI 53403-5011.
8-788	6% Gentran in 0.9% Sodium Chloride and 6% Gentran in 10% Travert	Baxter Healthcare Corp., Route 120 and Wilson Rd., Round Lake, IL 60073.
8-794	Chlor-Trimeton Injection	Schering Corp.
9-303	Camofom HCL Tablets	Parke-Davis.
9-378	Cortef Acetate Sterile Suspension Injection	The Upjohn Co.
9-751	Dipaxin Tablets	The Upjohn Co.
9-795	Hydrocortisone Tablets	Rorer Pharmaceutical Corp., 500 Virginia Dr., Ft. Washington, PA 19034.
9-864	Cortef Sterile Suspension Injection	The Upjohn Co.
9-958	Pamine Bromide Sterile Solution Injection	Do.
11-305	Midical Tablets	Parke-Davis.
11-376	Medrol Ointment	The Upjohn Co.
11-570	Medrol Acetate Cream	Do.
11-747	Oxylone Ointment	Do.



NDA No.	Drug name	Applicant's name and address
11-895.....	Gammacorten Tablet.....	Ciba-Geigy Corp.
12-631.....	Dorbantyl Capsules and Dorbantyl Forte Capsules.....	Riker Laboratories, Inc., Bldg. 270-3A 3M Center, St. Paul, MN 55144-1000.
13-267.....	Dexameth Tablets.....	Rorer Pharmaceutical Corp.
16-010.....	Tinactin Aerosol Spray.....	Schering Corp.
16-054.....	Repose Tablets.....	A.H. Robins Co., 1211 Sherwood Ave., Richmond, VA 23261-6609.
16-123.....	Orinase Oral Diagnostic Tablets.....	The Upjohn Co.
16-196.....	Tinactin Cream.....	Schering Corp.
16-226.....	Repository Corticotropin Injection.....	Wyeth Laboratories, Inc., P.O. Box 8299, Philadelphia, PA 19101.
16-228.....	Tinactin Powder.....	Schering Corp.
16-231.....	Vantage Soap.....	Puritan Chemical Co., 916 Ashby St., NW, Atlanta, GA 30318.
16-628.....	10% Gentran 40 in 5% Dextrose and 10% Gentran in 0.9% Sodium Chloride.....	Travenol Laboratories, Inc., P.O. Box 490, Round Lake, IL 60073.
16-902.....	Plasmapheresis Blood-Pack.....	Do.
16-934.....	Demulen-Fe 28.....	G.D. Searle & Co.
16-935.....	Demulen-28.....	Do.
17-036.....	Heparin Sodium Injection.....	Baxter Healthcare Corp.
17-065.....	Parla Capsules.....	Parke-Davis.
17-231.....	Oleic Acid I-125 Capsules.....	Mallinckrodt, Inc., 675 Brown Rd., St. Louis, MO 63134.
17-318.....	Sodium Rose Bengal I-242 Injection.....	Cis-us, Inc., 1983 Marcus Ave., Lake Success, NY 11042.
17-338.....	Progesterone Injection.....	Elkins-Sinn, Inc., Two Esterbrook Lane, Cherry Hill, NJ 08034.
17-541.....	Sterile Progesterone Suspension.....	Do.
17-832.....	Instant Microspheres.....	3M Medical Products Div., Medical-Surgical Division, 3M Center, St. Paul, MN 55144-1000.
18-678.....	4% Branchamin.....	Baxter Healthcare Corp.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the NDA's listed above, and supplements thereto, is hereby withdrawn, effective December 17, 1990.

Dated: November 1, 1990.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 90-26905 Filed 11-14-90; 8:45 am]

BILLING CODE 4160-01-M

## Health Resources and Services Administration

### Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress: National Advisory Council on Health Professions Education

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Law Library, HHS North Building, room G-619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 245-6791. Copies may be obtained from: Ms.

Wilma Johnson, Executive Secretary, National Advisory Council on Health Professions Education, room 8C-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6880.

Dated: November 9, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90-26964 Filed 11-14-90; 8:45 am]

BILLING CODE 4160-15-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[MT-920-91-4111-13; MTM 72513]

### Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97-451, a petition for reinstatement of oil and gas lease MTM 72513, Carbon County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of \$5 per acre and 16% respectively. Payment of a \$500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased

rental and royalty rates cited above, and reimbursement for cost of publication of this notice.

Dated: November 6, 1990.

June A. Bailey,

Chief, Leasing Unit.

[FR Doc. 90-26907 Filed 11-14-90; 8:45 am]

BILLING CODE 4310-DN-M

[ID-050-01-4212-13; IDI-27631]

### Realty Action; Exchange of Public Lands in Blaine County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: The following described lands in Blaine County, Idaho have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

T. 2 N., R. 18 E., Boise Meridian

Section 23: SW¼NE¼; containing 40 acres.

In exchange for these lands, the Federal Government will acquire the following non-Federal lands in Blaine County from Denis R. Perron:

T. 2 N., R. 19 E. Boise Meridian

Section 13: W¼SW¼

Section 14: NE¼, SE¼NW¼, S¼SE¼

Section 24: N¼NW¼

Containing 440 acres.

SUMMARY: The purpose of the exchange is to consolidate the public land base in the Wood River Valley area while disposing of an isolated parcel that is uneconomical and difficult to manage.

The value of the lands to be exchanged is approximately equal, and



the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

The terms and condition applicable to the exchange are:

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Reserving to the United States a road right-of-way, serial number IDI 22110, over and across a strip of land in T. 2 N., R. 18 E., Section 23: SW  $\frac{1}{4}$  NE  $\frac{1}{4}$ , 40 feet in width and 680 feet long.

3. A right-of-way for a ditch through the NW  $\frac{1}{4}$  Section 24, T. 2 N., R. 18 E., B.M., Blaine County Idaho, granted in Deed from Peter Weber to P.S. Dittoe, recorded February 9, 1920, in Book 98 of Deeds, p. 620.

The publication of this notice in the **Federal Register**, will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant.

The non-Federal lands described above are subject to prior Federal reserved minerals. The prior Federal interests are hereby segregated to the extent that such interests will not be considered to appropriation under mining laws until a notice pursuant to 43 CFR 2200.3(a) is issued.

Detailed information concerning this exchange is available for review at the Shoshone District BLM office at 400 West F Street, Shoshone, Idaho.

For a period of 45 days from the date of publication on this notice, interested parties may submit comments regarding this exchange to the District Manager, BLM Shoshone District Office, P.O. Box 2-B, Shoshone, ID 83352.

Dated: November 5, 1990.

Harold O. Brown,

Acting District Manager.

[FR Doc. 90-26870 Filed 11-14-90; 8:45 am]

BILLING CODE 4310-GG-M

[OR-090-00-4212-11: GPI-034; OR 45215]

# **Realty Action; Conveyance of Public Land for Recreation and Public Purposes; Lane County, OR**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of realty action—Recreation and Public Purposes Act classification and conveyance of public land in Lane County, Oregon.

**SUMMARY:** The following land has been examined and found suitable for classification for conveyance out of Federal ownership under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The land will not be conveyed until at least 60 days after the date of publication of this notice in the **Federal Register**:

Willamette Meridian, Oregon

T. 18 S., R. 12 W.

Sec. 15: SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ .

Containing 40.00 acres.

The land is not required for Federal purposes and conveyance is consistent with current BLM land use planning and would be in the national interest. The land will be conveyed without monetary consideration to the City of Florence, Oregon, to be managed for open space recreation.

The patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior and will contain the following reservations to the United States:

1. A right-of-way for ditches and canals constructed by the authority of the United States, Act of August 20, 1890 (26 Stat. 391, 43 U.S.C. 945).

2. All minerals, together with the right to prospect for, mine and remove such deposits under applicable law and such regulations as the Secretary of the Interior may prescribe.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

**DATES:** On or before December 31, 1990, interested parties may submit comments to the District Manager, Bureau of Land Management, at the address below. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective January 14, 1991.

**ADDRESSES:** Detailed information concerning the classification and conveyance, including the reservations and planning and environmental documents, is available at the Eugene District Office, P.O. Box 10226, 1255 Pearl Street, Eugene, Oregon 97440.

**FOR FURTHER INFORMATION CONTACT:** Ronald Wold, Eugene District Office at (503) 683-6403.

Dated November 5, 1990.

Ronald L. Kaufman,

District Manager.

[FR Doc. 90-26869 Filed 11-14-90; 8:45 am]

BILLING CODE 4310-33-M

[OR-943-01-4130-12; GP1-031; OR-39718(WASH)]

# **Conveyance of Public Lands; Order Providing for Opening Lands; Washington**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** This action informs the public of the conveyance of 2,210.53 acres of public land out of Federal ownership, with a reservation of oil and gas to the United States. Of the 8,907.72 acres reconveyed to the United States, this action will open 8,842.72 acres of reconveyed lands to surface entry, and 2,495 acres to mining and mineral leasing, except to oil and gas. The mineral estate in the 6,347.72-acre balance is not in Federal ownership. The 65-acre balance is within the Juniper Dunes Wilderness withdrawal and will not be opened to surface entry, mining, and mineral leasing.

**EFFECTIVE DATE:** December 17, 1990.

## **FOR FURTHER INFORMATION CONTACT:**

Linda Sullivan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

## **SUPPLEMENTARY INFORMATION:**

1. Notice is hereby given that in an exchange of lands made pursuant to Section 206 of the Act of October 21, 1976, 90 Stat. 2756; 43 U.S.C. 1716, a patent has been issued transferring 2,210.53 acres in Franklin County, Washington, from Federal to private ownership.

2. In the exchange, the following described lands have been reconveyed to the United States:

Willamette Meridian

T. 15 N., R. 23 E.,

Secs. 11 and 13.

T. 15 N., R. 24 E.,

Sec. 7, lots 1, 2, 3, and 4, E  $\frac{1}{2}$ , and E  $\frac{1}{2}$  W  $\frac{1}{2}$ ; Secs. 13 and 21.

T. 15 N., R. 25 E.,

Secs. 11 and 17.

T. 15 N., R. 26 E.,

Sec. 7, S  $\frac{1}{2}$  N  $\frac{1}{2}$  of lot 1, S  $\frac{1}{2}$  of lot 1, lots 2, 3, and 4, E  $\frac{1}{2}$ , and E  $\frac{1}{2}$  W  $\frac{1}{2}$ ;

Sec. 9, N  $\frac{1}{2}$  NE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , N  $\frac{1}{2}$

SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , N  $\frac{1}{2}$

W  $\frac{1}{2}$  NE  $\frac{1}{4}$ , W  $\frac{1}{2}$  NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SE  $\frac{1}{4}$

NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , W  $\frac{1}{2}$  SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SE  $\frac{1}{4}$

SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , W  $\frac{1}{2}$ , and SE  $\frac{1}{4}$ ;

Sec. 11.

T. 10 N., R. 31 E.,



Sec. 13.  
T. 11 N., R. 31 E.,  
Secs. 23, 25, and 35.

The areas described aggregate 8,907.72 acres in Franklin and Grant Counties.

3. The minerals are not in Federal ownership in T. 15 N., Rgs. 23, 24, 25, and 26, and are not open to location and entry under the United States mining laws, including the mineral leasing laws.

4. That portion of the SE¼ in Sec. 25, T. 11 N., R. 31 E., is within the boundary of the Juniper Dunes Wilderness withdrawal dated July 3, 1984, and will not be open to operation of the public land laws, including the mining and mineral leasing laws.

5. At 8:30 a.m., on December 17, 1990, the lands described in paragraph 2, except as provided in paragraph 4, will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on December 17, 1990, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

6. At 8:30 a.m., on December 17, 1990, the following described lands, except as provided in paragraph 4, will be opened to location and entry under the United States mining law, except to oil and gas. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts:

#### Willamette Meridian

T. 10 N., R. 31 E.,  
Sec. 13.  
T. 11 N., R. 31 E.,  
Secs. 23, 25, and 35.

7. At 8:30 a.m., on December 17, 1990, the lands described in paragraph 6, except as provided in paragraph 4, will be opened to applications and offers under the mineral leasing laws.

Dated: November 2, 1990.

Robert E. Molloyhan,  
Chief, Branch of Lands and Minerals  
Operations.

[FR Doc. 90-26868 Filed 11-14-90; 8:45 am]

BILLING CODE 4310-33-M

[ID-942-01-4730-12]

#### Idaho; Filing of Plats of Survey; Idaho

The plat of survey of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., November 5, 1990.

The plat representing the corrective dependent resurvey of portions of the subdivisional lines and the subdivision of section 28, T. 56 N., R. 1 W., Boise Meridian, Idaho, Group No. 750, was accepted December 12, 1988.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: November 5, 1990.

Gary T. Oviatt,  
Acting Chief, Cadastral Surveyor for Idaho.  
[FR Doc. 90-26871 Filed 11-14-90; 8:45 am]

BILLING CODE 4310-GG-M

#### Fish and Wildlife Service

##### Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-753389

Applicant: Ruby Catherine Lewis;  
Gerrardstown, West Virginia.

The applicant requests a permit to purchase one pair of captive hatched nene geese (*Nesochen* (= *Branta*) *sandvicensis*) from Charles Nugent, Kimbolton, Ohio, for the purpose of captive propagation.

PRT-744878

Applicant: Institute of wildlife Studies,  
Arcata, California.

The applicant requests the following amendments to their current permit which allows live-trapping, bleeding, and placement of telemetry transmitters on bald eagles (*Haliaeetus leucocephalus*): (1) Addition of Big Bear Lake, San Bernardino County, California as an authorized trapping site; (2) authorization to obtain captive-bred bald eagle chicks from zoos and other breeding facilities in the U.S. for placement in bald eagle nests on Santa Catalina Island; (3) authorization to obtain wild golden eagle chicks (*Aquila chrysaetos*), wild red-tailed hawk chicks (*Buteo jamaicensis*), and captive-bred Harris hawk chicks (*Parabuteo*

*unicinctus*) for placement in bald eagle nests as initial surrogate chicks, on Santa Catalina Island, for enhancement of the propagation of the species.

PRT-753541

Applicant: Mr. Felipe Gonzalez, Miami, FL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) to be culled from the captive herd maintained by Mr. Frank Bowker, Grahamstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-753543

Applicant: Mr. Roberto Cayon, Hialeah, FL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) to be culled from the captive herd maintained by Mr. Frank Bowker, Grahamstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-753542

Applicant: Mr. Peter Brito, Miami, FL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) to be culled from the captive herd maintained by Mr. Frank Bowker, Grahamstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-752769

Applicant: Mr. Jose Garcia, Garza Garcia, Mexico.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) to be culled from the captive herd maintained by Mrs. C.P. Human of Bredasdorp, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-753819

Applicant: New York Zoological Society,  
New York, New York.

The applicant requests a permit to import three captive-bred white-naped cranes (*Grus vipio*) from the Vogel Park in Germany, for the purpose of zoological display and captive-breeding.

PRT-753816

Applicant: Chicago Zoological Society,  
Brookfield, IL.

The applicant requests a permit to import 50 blood samples taken from captive-held black-handed spider monkeys (*Ateles geoffroyi frontus*) and (*Ateles geoffroyi panamensis*) for taxonomic research for developing better breeding and management



programs for these subspecies held in captivity.

PRT-753821

*Applicant:* California State University, Haycoard, CA.

The applicant requests a permit to trap, mark, transport, implant with micro telemetry transmitters, and release Santa Cruz long-toed salamanders (*Ambystoma macrodactylum croceum*) in Valencia and Ellicott Ponds of Santa Cruz County, California for population censusing and monitoring of the species.

PRT-752415

*Applicant:* John M. Rife, Jr., Winter Park, FL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*), culled from the captive herd maintained by M.J. D'Alton, P.O. Box 400, Bredasdorp, 7280 Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-752731

*Applicant:* The Planning Center, Newport Beach, CA.

The applicant requests a permit to live-trap and release Stephen's kangaroo-rats (*Dipodomys stephensi*) on the southeast quarter of section 34, T4S, R6W of Lake Mathews Quad (Riverside county), California, for preliminary biological survey purposes.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) room 430, 4401 N. Fairfax Dr., Arlington, VA 22203, or by writing to the Director, U.S. Office of Management Authority, 4401 N. Fairfax Drive, room 432, Arlington, VA 22203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: November 9, 1990.

Karen Wilson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 90-26942 Filed 11-14-90; 8:45 am]

BILLING CODE 4310-55-M

## INTERNATIONAL TRADE COMMISSION

### Global Competitiveness of U.S. Advanced-Technology Manufacturing Industries

In the matter of Investigation No. 332-301, Global Competitiveness of U.S. Advanced-

Technology Manufacturing Industries: Communications Technology and Equipment; Investigation No. 332-302, Global Competitiveness of U.S. Advanced-Technology Manufacturing Industries: Pharmaceuticals; Investigation No. 332-303, Global Competitiveness of U.S. Advanced-Technology Manufacturing Industries: Semiconductor Manufacturing and Testing Equipment.

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigations and scheduling of a single public hearing.

**EFFECTIVE DATE:** November 8, 1990.

#### FOR FURTHER INFORMATION CONTACT:

General inquiries regarding the three names investigations may be directed to Mr. Aaron Chesser, Office of Industries (202-252-1380). Industry-specific information regarding the three investigations may be obtained from the following staff members, also located in the Office of Industries, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436:

Inv. No. 332-301 (Communications Technology and Equipment), Ms.

Sylvia McDonough (202-252-1393);

Inv. No. 332-302 (Pharmaceuticals), Mr. Edmund Cappuccilli (202-252-1368); and

Inv. No. 332-303 (Semiconductor Manufacturing and Testing Equipment), Mr. Nelson Hogge (202-252-1395).

For information on legal aspects of these investigations contact Mr. William Gearhart of the Commission's Office of General Counsel (202-252-1091).

**BACKGROUND:** On July 20, 1990, at the request of the Senate Committee on Finance, and in accordance with section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the U.S. International Trade Commission instituted investigation No. 332-294, Identification of U.S. Advanced-Technology Manufacturing Industries for Monitoring and Possible Comprehensive Study. The Committee requested the Commission to expand its collection of, and ability to analyze, information on the competitiveness of advanced-technology manufacturing industries in the United States, pursuant to sections 332(b), 332(d), and 332(g) of the Tariff Act of 1930.

Specifically, the Committee requested that the Commission, under a two-stage investigation, (1) within 3 months of receipt of the letter, identify for the purpose of monitoring, using criteria provided by the Committee and any additional criteria of the Commission's choosing, U.S. advanced-technology manufacturing industries, and recommend three of those industries as subjects for comprehensive Commission

studies; and (2) within 12 months of the receipt of the Committee's approval (or modification) of the Commission's recommendations, submit its report on three industries the subject of comprehensive studies.

Notice of the Commission's investigation was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the *Federal Register* (55 FR 30530) of July 26, 1990. All persons were afforded the opportunity to submit written views concerning the industries to be included on the list and that may be the subject of a comprehensive study.

The Commission's report on investigation No. 332-294 (USITC Publication 2319, September 1990) was transmitted to the Senate Committee on Finance on September 21, 1990. In its report, the Commission identified ten advanced-technology industries and recommended the following three for comprehensive study: communications technology and equipment; pharmaceuticals; and semiconductor manufacturing and testing equipment.

By letter of September 27, 1990, the Senate Committee on Finance acknowledged receipt of the Commission's report on investigation No. 332-294 and approved the Commission's recommendation concerning the three industries for comprehensive study; the Committee further indicated its desire that the Commission complete its study of the three industries within 12 months.

In identifying the industries to be monitored, the Committee requested that the Commission consider the following criteria as well as any other criteria it may choose—

(1) Industries producing a product that involves use or development of new or advanced technology, involves high value-added, involves research and development expenditures that, as a percentage of sales, are substantially above the national average, and is expected to experience above-average growth of demand in both domestic and international markets; and

(2) benefits in foreign markets from coordinated—though not necessarily sector specific—policies that include, but are not limited to, protection of the home market, tax policies, export promotion policies, antitrust exemptions, regulatory policies, patent and other intellectual property policies, assistance in developing technology and bringing it to market, technical or extension services, performance requirements that mandate either certain levels of investment or exports or transfers of technology in order to



gain access to that country's market, and other forms of Government assistance.

The Committee requested that the report on the three industries to be selected include at least the following information—

Existing or proposed foreign government policies that assist or encourage these industries to remain or to become globally competitive, existing or proposed U.S. Government policies that assist or encourage these industries to remain or become globally competitive, and impediments in the U.S. economy that inhibit increased competitiveness of these U.S. industries.

As requested by the Committee, the Commission will attempt to include the aforementioned information in its reports.

**PUBLIC HEARING:** A consolidated public hearing in connection with the three investigations will be held in the Commission Hearing Room, 500 E Street SW., Washington, DC 20436, beginning at 9:30 a.m. on January 17, 1991, and continuing as required on January 18, 1991. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file requests to appear and should file prehearing briefs (original and 14 copies) with the Secretary, United States International Trade Commission, 500 E St., SW., Washington, DC 20436, not later than the close of business on January 3, 1991. Posthearing briefs must be filed by January 31, 1991.

**WRITTEN SUBMISSIONS:** In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigations. Written statements are encouraged early in the investigative process, but should be received no later than the close of business on June 7, 1991. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Office of the Secretary of the Commission in Washington, DC.

Hearing-impaired individuals are advised that information on this matter

can be obtained by contacting the Commission's TDD terminal on (202) 252-1810.

By order of the Commission.

Issued: November 8, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-26928 Filed 11-14-90; 8:45 am]

BILLING CODE 7020-02-M

[Inv. No. 337-TA-311]

**Certain Air Impact Wrenches;  
Commission Decision Not to Review  
an Initial Determination Designating  
the Investigation More Complicated**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) issued by the presiding administrative law judge (ALJ) designating the above-captioned investigation more complicated and extending the administrative deadline for filing the final ID by three months. The Commission has also extended the deadline for completion of the investigation by three months, *i.e.*, until August 5, 1991.

**ADDRESSES:** Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1092.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

**SUPPLEMENTARY INFORMATION:** On October 3, 1990, the presiding ALJ issued an ID designating the investigation more complicated and extending the administrative deadline for filing the ALJ's final ID by three months. No petitions for review or agency comments were received. The investigation was designated more complicated because of the serious illness of the president of respondent Astro Pneumatic Tool Co. (Astro) that temporarily jeopardizes the ability of Astro and respondent Kuan-1 Gear Co. to defend themselves in the investigation.

Authority for the Commission action is found in section 337(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(1)) and in

Commission interim rule 210.59 (19 CFR 210.59).

By order of the Commission.

Issued: November 7, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-26926 Filed 11-14-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-455 (Final)]

**Certain Laser Light-Scattering  
Instruments and Parts Thereof From  
Japan**

**Determination**

On the basis of the record<sup>1</sup> developed in the subject investigation, the Commission determines,<sup>2</sup> pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that an industry in the United States is threatened with material injury<sup>3</sup> by reason of imports from Japan of certain laser light-scattering instruments (LLSIs) and parts thereof,<sup>4</sup> provided for in subheadings 9027.30.40 and 9027.90.40 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than their fair value (LTFV).

**Background**

The Commission instituted this investigation effective July 6, 1990, following a preliminary determination by the Department of Commerce that imports of LLSIs and parts thereof from Japan were being sold at LTFV within the meaning of section 733(a) of the act (19 U.S.C. 1673b(a)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was

<sup>1</sup> The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

<sup>2</sup> Acting Chairman Brunsdale and Commissioner Lodwick dissenting.

<sup>3</sup> Commissioners Rohr and Newquist further determine that, pursuant to section 735(b)(4)(B), they would not have found material injury by reason of the imports subject to the investigation but for the suspensions of liquidation of the entries of the subject merchandise.

<sup>4</sup> The products covered by this investigation are laser light-scattering instruments and parts thereof from Japan that have classical measurement capabilities, whether or not also capable of dynamic measurements. The following parts are included in the scope of the investigation when they are manufactured according to specifications and operational requirements for use only in such an LLSI: Scanning photomultiplier assemblies, immersion baths, sample-containing structures, electronic signal-processing boards, molecular characterization software, preamplifier/discriminator circuitry, and optical benches.



given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of July 25, 1990 (55 FR 30284). The hearing was held in Washington, DC, on September 25, 1990, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on November 2, 1990. The views of the Commission are contained in USITC Publication 2328 (November 1990), entitled, "Certain Laser Light-Scattering Instruments and Parts Thereof from Japan: Determination of the Commission in Investigation No. 731-TA-455 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By order of the Commission.

Issued: November 5, 1990.

Kenneth R. Mason,  
Secretary.

[FR Doc. 90-26929 Filed 11-14-90; 8:45 am]

BILLING CODE 7020-02-M

## INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31757]

### Crystal City Railroad, Inc.; Acquisition and Operation Exemption, Railroad Switching Service of Missouri, Inc.; Texas Railroad Switching, Inc.

Crystal City Railroad, Inc. (CC), and Texas Railroad Switching, Inc. (TRS), noncarriers, have filed a notice of exemption for CC to acquire and TRS to lease and operate approximately 53.41 miles of rail line owned by Railroad Switching Service of Missouri, Inc. (RSSM), extending: (1) Between milepost 105.14, near Gardendale, TX, and milepost 147.4 near Crystal City, TX; and (2) between milepost 145.2, near Crystal City, and milepost 156.35, near Carrizo Springs, TX.<sup>1</sup> CC will acquire the rail lines from RSSM and will immediately lease them to RSSM's affiliate TRS, which will assume the common carrier obligation on the line. These transactions were expected to be consummated on or after October 23, 1990.

These transactions are related to a notice of exemption filed concurrently,

<sup>1</sup> RSSM purchased the lines from the Missouri Pacific Railroad Company. See Finance Docket No. 31616, *Railroad Switching Service of Missouri, Inc.—Acquisition—Missouri Pacific Railroad Company Lines Between Gardendale, Crystal City and Carrizo Springs, TX* (not printed), served July 31, 1990.

under 49 CFR 1180.2(d)(2), in Finance Docket No. 31758, *Merchants Management Corp.—Continuance in Control Exemption—Texas Railroad Switching, Inc.*, for the continued control by Merchants of TRS and two other non-connecting Class III rail carriers.

Any comments must be filed with the Commission and served on: William P. Jackson, Jr., Jackson & Jessup, P.C., P.O. Box 1240, Arlington, VA 22210.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 7, 1990.

By the Commission, David M. Konschnik,  
Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-26818 Filed 11-14-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31758]

### Merchants Management Corp.; Continuance in Control Exemption, Texas Railroad Switching, Inc.

Merchants Management Corp. (MMC), a noncarrier, has filed a notice of exemption to continue to control the Poseyville and Owensville Railroad Company (P&O) and Railroad Switching Service of Missouri, Inc. (RSSM), existing class III rail carriers, and Texas Railroad Switching, Inc. (TRS), upon TRS's becoming a rail carrier. TRS will be the operator of lines in the State of Texas leased from Crystal City Railroad, Inc. (CC), that were previously owned by RSSM. CC and TRS have concurrently filed a notice of exemption in Finance Docket No. 31757, *Crystal City Railroad, Inc.—Acquisition and Operation Exemption—Railroad Switching Service of Missouri, Inc.; Texas Railroad Switching, Inc.—Lease and Operation Exemption—Crystal City Railroad, Inc.* After the acquisition and lease transactions are consummated, MMC will be in control of three rail carriers.

MMC indicates that: (1) The properties operated by P&O, RSSM, and TRS will not connect with each other; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail carriers with each other or with any other railroad in their corporate family; and (3) the transaction does not involve a Class I carrier.

Therefore, this transaction involves the continuance in control of nonconnecting carriers and is exempt from the prior review requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: William P. Jackson, Jr., Jackson & Jessup, P.C., P.O. Box 1240, Arlington, VA 22210.

Decided: November 7, 1990.

By the Commission, David M. Konschnik,  
Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-26819 Filed 11-14-90; 8:45 am]

BILLING CODE 7035-01-M

## Exemption

[Finance Docket No. 31772]

### The Bloomer Shippers Railway Redevelopment League—Trackage Rights Exemption—Illinois Central Railroad Co. and Norfolk and Western Railway Co.

Illinois Central Railroad Company (IC) and Norfolk and Western Railway Company (NW) have agreed to grant The Bloomer Shippers Railway Redevelopment League (Bloomer) terminal trackage rights accessing IC's interchange track at Gibson City, IL.

IC will grant rights over 4 miles of track between milepost 109 and 113 on its Gilman District line, at Gibson City. NW will grant rights over approximately 2 miles of track between the NW/IC north wye switch and milepost 342 on NW's Peoria District line, also at Gibson City. The trackage rights were to become effective November 9, 1990.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Thomas W. Leach, The Bloomer Shippers Railway Redevelopment League, P.O. Box 455, 100 E. Locust Street, Chatsworth, IL 60921.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected



pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978)*, as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: November 9, 1990.

By the Commission, David M. Konschnik,  
Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-26959 Filed 11-14-90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 370X)]

**Exemption; CSX Transportation, Inc.—  
Abandonment Exemption—In Lake  
County, IN**

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—Exempt Abandonments to abandon its 0.32-mile line of railroad between valuation stations 185+94 and 202+59, at Whiting, in Lake County, IN.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on December 15, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to

<sup>1</sup> A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is

file an offer of financial assistance under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking statements under 49 CFR 1152.29 must be filed by November 26, 1990.<sup>3</sup> Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by December 5, 1990, with:

Office of the Secretary, Case Control  
Branch, Interstate Commerce  
Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative:

Lawrence H. Richmond, CSX  
Transportation, Inc., 100 North  
Charles Street, Baltimore, MD 21201.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by November 20, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: November 8, 1990.

By the Commission, David M. Konschnik,  
Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-26953 Filed 11-14-90; 8:45 a.m.]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No 366X)]

**Exemption; CSX Transportation, Inc.—  
Abandonment Exemption—In  
Kanawha County, WV**

Applicant has filed a notice of exemption under 49 CFR part 1152 Subpart F—Exempt Abandonments to abandon its 26.12-mile line of railroad:

encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

<sup>2</sup> See *Exempt. of Rail Abandonment—Office of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

<sup>3</sup> The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

(1) Between milepost 0.00, at Cabin Creek Junction, and milepost 16.43, near Kayford; (2) between milepost 0.00, at Leewood, and milepost 7.04, at United; and (3) between milepost 0.00, at Decota, and milepost 2.65, at Republic, in Kanawha County WV.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user or rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on December 16, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking statements under 49 CFR 1152.29 must be filed by November 26, 1990.<sup>3</sup> Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by December 6, 1990, with:

Office of the Secretary, Case Control  
Branch, Interstate Commerce  
Commission, Washington, DC 20423.

<sup>1</sup> A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by the party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

<sup>2</sup> See *Exempt. of Rail Abandonment—Office of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

<sup>3</sup> The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.



A copy of any petition filed with the Commission should be sent to applicant's representative:  
Charles M. Rosenberger, CSX  
Transportation, Inc., 500 Water Street,  
Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ad initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by November 21, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: November 8, 1990.

By the Commission, David M. Konschnik,  
Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-26954 Filed 11-14-90; 8:45 am]

BILLING CODE 7035-01-M

#### [Finance Docket No. 31734]

#### **Green Bay Packaging Inc.—Control— Kwt Railway, Inc. and Atlantic and Western Railway Co.**

**AGENCY:** Interstate Commerce  
Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission retroactively exempts Green Bay Packaging Inc. from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, for its control of KWT Railway, Inc., and Atlantic and Western Railway Company, subject to the conditions for the protection of railroad employees in *New York Dock Ry.—Control—  
Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

**DATES:** This notice is effective on December 15. Petitions for stay must be filed November 26, 1990, and petitions for reconsideration must be filed by December 5, 1990.

**ADDRESSES:** Send pleadings referring to Finance Docket No. 31734 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
- (2) Petitioners' representatives:  
Donald G. Avery, Esq., Slover & Loftus,  
1224 17th Street, NW., Washington,  
DC 20036.

**FOR FURTHER INFORMATION CONTACT:**  
Joseph H. Dettmar, (202) 275-7245, (TDD  
for hearing impaired: (202) 275-1721.)

**SUPPLEMENTARY INFORMATION:**  
Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275-1721.)

Decided: November 8, 1990.

By the Commission, Chairman Philbin, Vice  
Chairman Phillips, Commissioners Simmons,  
Emmett, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-26592 Filed 11-14-90; 8:45 am]

BILLING CODE 7035-01-M

#### [Docket No. AB-290 (Sub-No. 103X)]

#### **Norfolk and Western Railway Co.; Abandonment Exemption in Pike County, KY**

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its 3.6-mile line of railroad between milepost HL-11.4, at Bama, and milepost HL-15.0, at Bane, in Pike County, KY.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on December 15, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking statements under 49 CFR 1152.29 must be filed by November 26, 1990.<sup>3</sup> Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by December 5, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by November 20, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 31, 1990.

<sup>1</sup> A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

<sup>2</sup> See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

<sup>3</sup> The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.



By the Commission, David M. Konschnik,  
Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-26820 Filed 11-14-90; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 89-63]

**Robert L. Weeks, D.O. Edmond,  
Oklahoma, Hearing**

Notice is hereby given that on October 24, 1989, the Drug Enforcement Administration, Department of Justice, issued to Robert L. Weeks, D.O., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, BW1258993, and deny any pending applications for a DEA Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on November 28, 1990, commencing at 9:30 a.m., at the U.S. Tax Court, Main Place Building, 420 West Main Street, Courtroom 1020, Oklahoma City, Oklahoma.

Dated: November 8, 1990.

**Robert C. Bonner,**

Administrator, Drug Enforcement  
Administration.

[FR Doc. 90-26885 Filed 11-14-90; 8:45 am]

BILLING CODE 4410-09-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 90-98]

### Agency Report Forms Under OMB Review

**AGENCY:** National Aeronautics and  
Space Administration.

**ACTION:** Notice of agency report forms  
under OMB review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 63's), supporting statements, instructions,

transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

**DATES:** Comments are requested by November 17, 1990. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

**ADDRESSES:** Mr. D. A. Gerstner, NASA Agency Clearance Officer, Code NTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700-0054), Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Shirley C. Peigare, NASA Reports Officer, (703) 271-5542.

### Reports

**Title:** NASA FAR Supplement Part 18-43, Contract Modifications.

**OMB Number:** 2700-0054.

**Type of Request:** Extension.

**Frequency of Report:** On occasion.

**Type of Respondent:** State or local governments, businesses or other for profit, non-profit institutions, small businesses or organizations.

**Number of respondents:** 720.

**Responses per respondent:** 2.

**Annual Responses:** 1,440.

**Hours per response:** 50.

**Annual Burden Hours:** 72,000.

**Abstract-Need/Uses:** Contractor submittal of proposals in response to change orders.

Dated: November 5, 1990.

**D. A. Gerstner,**

Director, IRM Policy Division.

[FR Doc. 90-26920 Filed 11-14-90; 8:45 am]

BILLING CODE 7510-01-M

## NATIONAL SCIENCE FOUNDATION

### Committee Management; Establishment

The Assistant Director for Mathematical and Physical Sciences has determined that the establishment of the Special Emphasis Panel in Astronomical Sciences is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by 42 U.S.C. 1861 et seq. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

**Name of Committee:** Special Emphasis Panel in Astronomical Sciences.

**Purpose:** Primarily, to advise on the merit of special emphasis proposals or applications submitted to the Division of Astronomical Sciences for financial support.

**Balanced Membership Plan:**

Membership will be selected on an "as needed" basis in response to specific proposals, applications, or sites to be reviewed. Members will be selected for their demonstrated scientific and engineering expertise so as to represent a reasonable balance of capability in the various subfields of the proposals to be reviewed. Consideration will also be given to achieving geographic balance and to enhancing representation for women, minority, younger and disabled scientists.

**Responsible NSF Official:** Dr. Jim Wright, Program Director for Cross-Directorate Programs, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Dated: November 9, 1990.

**M. Rebecca Winkler,**

Committee Management Officer.

[FR Doc. 90-26943 Filed 11-14-90; 8:45 am]

BILLING CODE 7555-01-M

### Committee Management; Establishment

The Assistant Director for Biological, Behavioral, and Social Sciences has determined that the establishment of the Special Emphasis Panel in Behavioral and Neural Sciences is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by 42 U.S.C. 1861 et seq. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

**Name of Committee:** Special Emphasis Panel in Behavioral and Neural Sciences.

**Purpose:** Primarily, to advise on the merit of special emphasis proposals or applications submitted to the Division of Behavioral and Neural Sciences for financial support.

**Balanced Membership Plan:**

Membership will be selected on an "as needed" basis in response to specific proposals, applications, or sites to be reviewed. Members will be selected for their demonstrated scientific and engineering expertise so as to represent a reasonable balance of capability in the various subfields of the proposals to be reviewed. Consideration will also be



given to achieving geographic balance and to enhancing representation for women, minority, younger and disabled scientists.

*Responsible NSF Official:* Dr. Richard T. Louttit, Director, Division of Behavioral and Neural Sciences, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Dated: November 9, 1990.

*M. Rebecca Winkler,*  
*Committee Management Officer.*

[FR Doc. 90-26944 Filed 11-14-90; 8:45 am]

BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on the Medical Uses of Isotopes; Meeting

The Advisory Committee on the Medical uses of Isotopes will conduct a meeting by teleconference at 11 a.m., on December 5, 1990. The purpose of the meeting is to discuss the training and experience credentials of an individual who has been proposed as an authorized user for medical use. This meeting will be closed to discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

I have determined in accordance with subsection 10(d) Public Law 92-463 that it is necessary to close this meeting to discuss information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(2)(6)).

For further information, contact John Glenn, Ph.D., at (301) 492-3418.

Dated: November 8, 1990.

*John C. Hoyle,*  
*Advisory Committee Management Officer.*

[FR Doc. 90-28918 Filed 11-14-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260, and 50-296]

### Tennessee Valley Authority; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-33, DPR-52, and DPR-68 issued to the Tennessee Valley Authority (TVA) (the licensee) for operation of the Browns

Ferry Nuclear Plant, Units 1, 2, and 3 located in Limestone County Alabama.

The proposed amendment would revise Technical Specifications (TS) as follows: (1) clarify equipment requirements for Table 3.2.B and Limiting Conditions for Operation (LCO) 3.5.B.11, 3.5.E.1, 3.5.F.1, 3.5.G.1, 3.6.D.1, and the Bases Section of 3.6.D.6.D, when the reactor is in the cold shutdown condition, (2) correct the maximum operating power level, allowed by Table 3.2.B for an inoperable Recirculation Pump Trip (RPT) system(s), from 85 percent to 30 percent power, and (3) correct two typographical errors in Table 3.2.B. This amendment was originally proposed by TVA in a letter dated May 18, 1990, which was published in the *Federal Register* (FR) on June 27, 1990 (55 FR 26295) as a proposed no significant hazards consideration (NSHC). The licensee has since superseded, by letter dated October 30, 1990, their original amendment application. TVA's amendment application only changes the revised LCO requirements of TS section 3.6.D as specified in TS revision (1), identified above. Consequently, the Commission is publishing another FR notice of proposed NSHC. Although, in this case, the Commission's prior proposed determination of NSHC has not changed, as documented below, the Commission is constrained by its rule to re-assess and renotice its prior determination of NSHC in the FR.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any accident previously evaluated; or involve a significant reduction in a margin of safety.

In the October 30, 1990 letter, the licensee provided the following revised analysis of their modified TS changes, as required by 10 CFR 50.92:

1. The proposed [TS amendment] does not involve a significant increase in the probability or consequences of an accident previously evaluated. [TS revision (1), identified above,] clarifies equipment operability requirements with the reactor in

the cold shutdown condition. With the reactor in the cold shutdown condition, primary system energy is minimal and the control rods are inserted. Reactor pressure is normally atmospheric except during performance of inservice hydrostatic tests, inservice leakage tests, and Integrated Leak Rate Tests (ILRT). This change would inhibit the drywell high pressure instruments which function to detect primary system leaks. With minimal system energy and no steam generation, this function is not required. The High Pressure Coolant Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) systems are not required because there is no steam supply to operate them and Residual Heat Removal (RHR) and Core Spray (CS) are operable and capable of providing makeup in cases of leaks to protect the fuel from being uncovered. The Automatic Depressurization System (ADS) is not required for leaks considered possible during the inservice hydrostatic test. Reactor pressure would decrease fast enough to allow residual heat removal and core spray injection in time to preclude water level decreasing to an unsafe level. The relief valves are not required to be operable because alternate means of overpressurization protection are provided in the tests. During inservice hydrostatic testing, 11 of the 13 relief valves are disabled by removing the pilot cartridges and blanking the pilot ports. Overpressurization protection is provided by the two remaining relief valves which have their setpoint established in accordance with ASME Section XI. The RHR crosstie is not required because there is no high energy potential to breach the torus in the cold shutdown condition. The change is consistent with industry practice and the GE BWR Standard TSs (NUREG 0123).

[TS revision (2), identified above,] is a more conservative requirement. The RPT system provides an automatic trip of both recirculation pumps after a turbine trip or a generator load reject. This reduction in flow increases the core voids and provides immediate negative reactivity to reduce the severity of the transient. There are two RPT systems. If both RPT systems are inoperable or if one RPT system is operable for more than 72 hours, reactor power shall be less than 30 percent within four hours (vs. the current 85 percent). The proposed value of 30 percent power is consistent with the BFN RPT analysis and the BFN Updated Final Safety Analysis Report. Therefore, this change involves no significant increase in the probability or consequences of an accident previously analyzed.

[TS revision (3), identified above,] is an administrative change that corrects typographical errors.

2. The proposed [TS amendment] does not create the possibility of a new or different kind of accident from an accident previously evaluated. [TS revision (1), identified above,] does not involve changes in plant hardware or method of operation from that currently practiced. The changes are clarifications to TSs to facilitate performance of required TS testing with the reactor in the cold shutdown condition. The methods of performance are consistent with industry practice.



[TS revision (2), identified above,] will ensure that when both RPT systems are inoperable or when one RPT system is inoperable more than 72 hours, reactor power is dropped to a level consistent with the analysis performed for the RPT installation.

[TS revision (3), identified above,] corrects two typographical errors so the TSs will be more consistent.

3. The proposed [TS amendment does] not involve a significant reduction in the margin of safety. [TS revision (1), identified above,] clarifies equipment operability requirements with the reactor in the cold shutdown condition. Sufficient safety equipment is still available to ensure the fuel remains covered, even in the event of leaks. It does not reduce the equipment available to mitigate an accident and as such does not reduce the margin of safety.

[TS revision (2), identified above,] is more conservative than the current TS. When the RPT system is inoperable the maximum allowed reactor power will be reduced. This is consistent with the analysis performed for the RPT installation and the FSAR and does not reduce the margin of safety.

[TS revision (3), identified above,] is an administrative change which does not reduce the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, based on the above considerations, the staff has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 14, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and

any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition to leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the Local Public Document Room located at the Athens Public Library, South Street, Athens, Alabama. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner

shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in providing the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If a final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that a failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should



the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Frederick J. Hebdon (petitioner's name and telephone number) (date petition was mailed) (plant name), and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the applications for amendment dated March 18, 1990 as superseded by October 30, 1990, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the Local Public Document Room located at the Athens Public Library, South Street, Athens, Alabama.

Dated at Rockville, Maryland, this 9th day of November 1990.

For the Nuclear Regulatory Commission.  
**Thierry M. Ross,**  
*Project Manager, Project Directorate II-4,  
Division of Reactor Projects-1/II, Office of  
Nuclear Reactor Regulation.*

[FR Doc. 90-26922 Filed 11-4-90; 8:45 am]

BILLING CODE 7590-01-M

## OFFICE OF NATIONAL DRUG CONTROL POLICY

### President's Drug Advisory Council; Meeting Cancellation

**AGENCY:** President's Drug Advisory Council; Office of National Drug Control Policy.

**ACTION:** Notice of cancellation of meeting.

**SUMMARY:** Notice of an open meeting of the President's Drug Advisory Council, to be held on November 16, 1990, was published in the **Federal Register** on Tuesday, November 6, 1990 [55 FR 46745]. Due to the absence of several members of the Council, this meeting will be cancelled. The meeting will be rescheduled for a later date, and notice of the meeting will be published in the **Federal Register** at the appropriate time.

**FOR FURTHER INFORMATION CONTACT:** Mr. Nelson Cooney, Staff Assistant, President's Drug Advisory Council, Executive Office of the President, Washington, DC 20503, (202) 466-3100.

**John Walters,**  
*Chief of Staff, Office of National Drug Control Policy.*

[FR Doc. 90-27068 Filed 11-13-90; 1:55 pm]

BILLING CODE 3180-02-M

## OFFICE OF PERSONNEL MANAGEMENT

### Proposed Information Collection Submitted to OMB for Clearance

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of proposed information collection.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1980, (chapter 35 of title 44, United States Code), this notice announces a request submitted by the Office of Personnel

Management (OPM) to the Office of Management and Budget (OMB) for expedited clearance of two new information collections: Nonforeign Area Cost-of-Living Allowance Background Survey and Nonforeign Area Cost-of-Living Allowance Price Survey. These information collections will be used for annual living cost surveys and for background surveys that will be conducted approximately once every 5 years to evaluate the program. This year Runzheimer International will conduct the surveys for OPM under contract. Selected retail, service, realty, and other businesses and local government will be surveyed in nonforeign allowance areas and in the Washington, DC, area to obtain living cost data. OPM will use these data to develop cost-of-living allowances as authorized by section 5941 of title 5, United States Code. Approximately 300 establishments will be contacted in the background survey, and approximately 4,600 establishments will be contacted in the price survey. OPM estimates that the average background survey interview will take approximately 10 minutes, for a total burden of 50 hours. The average price survey interview will take approximately 7 minutes, for a total burden of 540 hours. For copies of this proposal, call Ronald Truworthy, Agency Clearance Officer, on (202) 606-2261.

OPM is requesting that OMB approve these information collections within 14 days after the date of publication in the **Federal Register**.

**DATES:** Comments on this proposal should be received within 10 working days after the date of this notice.

**ADDRESSES:** Send or deliver comments to: C. Ronald Truworthy, Agency Clearance Officer, U.S. Office of Personnel Management, room 6410, 1900 E Street, NW., Washington, DC 20415, and Joseph Lackey, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3002, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Donald L. Paquin (202) 606-2848.

U.S. Office of Personnel Management.  
**Constance Berry Newman,**  
*Director.*

BILLING CODE 6325-01-M



**Nonforeign Area Cost-of-Living  
Background Survey Information Collection**

Contact Date: \_\_\_\_\_ Allowance Area: \_\_\_\_\_

Contact
Name:
Address:
Phone #:

Purpose of Contact	<input type="checkbox"/>
Product/Service Info.	
Outlet Availability/Usage	
Transportation Info.	
Local Taxes and Fees	
Mortgage Information	
Real Estate Information	
Other: (specify)	

<b>Findings:</b>
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<b>Remarks:</b>
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## SECURITIES AND EXCHANGE COMMISSION

[Release No. PA-14]

### Privacy Act of 1974; Revocation of Systems of Records

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notification of revocation of certain descriptions of systems of records which are within the scope of the consolidated description of the system of records for enforcement files.

**SUMMARY:** In 1989, the Commission consolidated its descriptions of enforcement systems of records. At the time of consolidation, a number of descriptions of systems of records were revoked as no longer necessary. Since that time, the Commission has concluded that certain additional descriptions of systems of records also are redundant, and these descriptions have been revoked.

**EFFECTIVE DATE:** November 15, 1990.

**FOR FURTHER INFORMATION CONTACT:** Kenneth H. Hall, Senior Counsel, Division of Enforcement, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** In 1989, pursuant to the Privacy Act of 1974, the Commission published a description of its enforcement system of records, designated SEC-102 (Enforcement Files). See Privacy Act Release No. 11 (May 30, 1989, 54 FR 24454 (June 7, 1989)) (consolidation of systems of records); Securities Exchange Act Release No. 26875 (May 30, 1989), 54 FR 24329 (June 7, 1989) (related rule amendments). This description was a consolidation of previously-published descriptions of systems of records for the Commission's investigation and litigation files.

Prior to the consolidation of descriptions of enforcement systems of records, the Commission maintained more than twenty descriptions of systems of records for its enforcement files. The consolidation of descriptions was intended to reflect the actual practice of requestors and Commission staff of treating such files as falling into a single system of records, and to bring the consolidated descriptions up to date. To ensure that all enforcement-related files were covered, the consolidated description was drafted to cover all records related to investigations or litigation, including computerized records. At the time of consolidation, however, the Commission did not include the descriptions of SEC-35 (Investigations and Actions Index System) or SEC-101 (Matter Under

Inquiry) ("MUI") in the list of descriptions to be revoked. SEC-35 is the description of a paper index reflecting the dates on which investigations or enforcement actions were authorized and instituted. The description of this system was inadvertently omitted from the list of descriptions to be revoked in the notice announcing the consolidation of enforcement systems of records. SEC-101 is the description of a computerized system containing index information that relates the name of an individual to the subject of a preliminary inquiry. At the time of consolidation, the description of this system contained retention and disposal requirements that were different from those applicable in the consolidated description. Those differences have been eliminated. Accordingly, there is no longer a need to maintain a separate description for this system. For the foregoing reasons, both SEC-35 and SEC-101 have been revoked.

Dated: November 7, 1990.  
Margaret H. McFarland,  
Deputy Secretary.  
[FR Doc. 90-26924 Filed 11-14-90; 8:45 am]  
BILLING CODE 8010-01-M

[Rel. No. 34-28599; File No. SR-NSCC-90-23]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Filing of Proposed Rule Change Relating to the Elimination of the Correspondent Delivery and Collection Service

November 7, 1990.

Pursuant to section 19(b) (1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 18, 1990, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR-NSCC-90-23) as described in Items I, II, and III below, which items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to eliminate NSCC's Correspondent Delivery and Collection Service ("CDCS"). Additionally, the proposed rule change modifies NSCC's

fee structure to reflect the elimination of CDCS.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

##### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule filing is to eliminate CDCS. CDCS is a service which provides for the physical delivery of securities in exchange for payment between NSCC Members and non-Members ("CDCS Participants") at various locations throughout the United States. Currently, NSCC has agreements with nine banks, clearing agencies, exchanges, and depositories that act as CDCS facilities for the purpose of receiving and/or delivering securities on behalf of CDCS Participants.

NSCC is eliminating the service due to the minimal volume and participation in recent years. The volume has declined from a daily average of thirty-one transactions in 1988 to a daily average of fourteen transactions to date in 1990. There are currently only eight NSCC Members who use the service on a daily basis. Due to the limited usage, NSCC is unable to cover its costs of providing the service. This year NSCC increased its fee for the service in an effort to cover its costs but continues to suffer a loss. A further increase would not remedy the problem because it would make CDCS more expensive for participants than alternative solutions.

The decline in the use of CDCS is primarily due to the decline in the use of physical securities. With the industry's movement to a book entry environment, there is and will be a significantly reduced need to transfer physical certificates in securities transactions. In addition, in the event that a minimal need for this kind of service remains, there are viable alternatives available for CDCS Participants. Banks offer draft services for a fee comparable to NSCC's. In addition, firms can use express mail, registered mail, or telemail. The



Midwest Clearing Corporation also has a similar service which could be used.

NSCC has contacted each of the eight CDCS Participants who utilize the service on a daily basis to determine whether the elimination of the service would negatively impact them. None of the firms expressed an objection, and in fact, all of them stated that they were aware of alternatives.

The proposed rule change also modifies NSCC's fee structure to reflect the elimination of the CDCS service.

Since the proposed rule change will eliminate a service which has minimal volume and thus is not cost effective to maintain, it is consistent with section 17A of the Act and the rules and regulations thereunder applicable to NSCC.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

NSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NSCC consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

NSCC requests accelerated effectiveness of the proposed rule filing in order to allow NSCC to eliminate the service by December 1, 1990. NSCC would like to eliminate the service as soon as possible in order to minimize its financial loss incurred in providing the service.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the

Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-90-23 and should be submitted by December 6, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 90-26925 Filed 11-14-90; 8:45 am]

BILLING CODE 8010-01-M

**SMALL BUSINESS ADMINISTRATION**

**Senior Executive Service Performance Review Board; List of Members**

**AGENCY:** Small Business Administration.

**ACTION:** Listing of personnel serving as members of this agency's senior executive service performance review boards.

**SUMMARY:** Section 4314(c)(4) of title 5, U.S.C. requires Federal agencies publish notification of the appointment of individuals who serve as members of that Agency's Performance Review Boards (PRB). The following is a listing of those individuals currently serving as members of this Agency's PRB:

1. Johnnie L. Albertson, Deputy to the Associate Deputy Administrator for Special Programs.
2. Michael P. Forbes, Assistant Administrator for Congressional and Legislative Affairs.
3. Bernard Kulik, Assistant Administrator for Disaster Assistance.
4. Catherine Marschall, Associate Deputy Administrator for Special Programs.
5. Sally B. Narey, General Counsel.
6. Richard L. Osbourn, Director of Personnel.
7. George H. Robinson, Director, Equal Employment Opportunity and Compliance.
8. Lawrence R. Rosenbaum, Comptroller.
9. John Whitmore, Deputy Associate Administrator for Programs (MSB & COD).
10. Lejuene Wilson, Regional Administrator, Dallas.

Dated: November 8, 1990.

Susan Engeleiter,  
Administrator.

[FR Doc. 90-26895 Filed 11-14-90; 8:45 am]

BILLING CODE 8025-01-M

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

[Docket No. 90-27-IP-NO. 1]

**Cooper Tire & Rubber Co.; Receipt of Petition for Determination of Inconsequential Noncompliance**

Cooper Tire & Rubber Company (Cooper), of Findlay, Ohio has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.109, Federal Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires," on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

Standard No. 109, S4.3(a) requires that tires have molded into or onto both sidewalls, one size designation, except that equivalent inch and metric size designations may be used. Cooper manufactured 10,931 Tempra Year Round polyester/steel belted, tubeless, white sidewall, radial tires that do not comply with this labeling requirement of Standard No. 109. These tires were stamped with the incorrect size designation of P255/75R15 on the non serial side of the tire, in the area between the maximum section width of the tire and the bead, with characters .156 inch in height. The correct size designation for these tires is P225/75R15.

Cooper supports its petition for inconsequential noncompliance with the following:

- (1) "The tires in question are correctly stamped on the serial side, in the area between the maximum section width of the tire and the bead, with the designation P225/75R15. The tires are correctly stamped on both sides in the upper sidewall of the tire with the designation P225/75R15 in characters .625 inches in height. In addition each tire contains an adhesive paper tread label indicating the correct size of P225/75R15."



(2) "The single mislabel on each tire is incorrect only as to the cross section width, that is 255, of the tire. The series 75, the designation of radial, and the rim diameter of 15 are all correct. Also the maximum load and inflation stamping on both sidewalls of each tire are correct for a P225/75R15 tire."

(3) "A P255/75R15 has never been produced by Cooper, has never been standardized by the Tire & Rim Association, and to the best of our knowledge has never been produced by anyone, therefore the possibility of misapplication does not exist."

(4) "The tires \* \* \* comply with all other requirements of 49 CFR 571."

Interested persons are invited to submit written data, views and arguments on the petition of Cooper described above. Comments should refer to the Docket Number and be submitted to: Docket section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street SW., Washington, DC, 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the *Federal Register* pursuant to the authority indicated below.

Comment closing date: December 17, 1990.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.78.

Issued on November 9, 1990.

Barry Felice,

Associate Administrator for Rulemaking.

[FR Doc. 90-26915 Filed 11-14-90; 8:45 am]

BILLING CODE 4910-59-M

## NHTSA's Priority Plan 1990-1992

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces the publication of NHTSA's Priority Plan (1990-1992). The plan was developed to provide a coordinated program for improving highway traffic safety over the next three years. The document outlines the agency's major goals and strategies to achieve improved highway safety by enacting both vehicular and behavioral countermeasures. The priority plan includes proposed rulemaking initiatives for improving motor vehicle safety, planned technical and financial assistance for State highway safety initiatives, and public education and information campaigns to create public awareness of traffic safety issues. The agency plan also identifies cooperative programs with the public and private sectors to materially reduce the risk and severity of motor vehicle crashes.

**FOR FURTHER INFORMATION:** Interested persons may obtain a copy of the plan free of charge by sending a self-addressed label to the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Attention: NAD-51, Washington, DC 20590.

Issued on November 9, 1990.

Donald C. Bischoff,

Acting Associate Administrator for Plans and Policy.

[FR Doc. 90-26899 Filed 11-14-90; 8:45 a.m.]

BILLING CODE 5910-59-M

## Research and Special Programs Administration, Hazardous Materials Transportation; Applications for Exemptions

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of applicants for exemptions.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

**DATES:** Comments must be received on or before December 14, 1990.

**ADDRESSES COMMENTS TO:** Dockets Branch, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

**FOR FURTHER INFORMATION CONTACT:** Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.



## NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10483-N	City of Plattsburgh, Plattsburgh, NY	49 CFR 174.67(i)	To authorize chlorine filled tank cars to stand with unloading connections attached during unloading without being attended by an unloader. (Mode 2.)
10484-N	Active Aero Charter, Inc., Belleville, MI.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), Part 107, Appendix B.	To authorize carriage of Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
10485-N	M & M Industries, Inc., Chattanooga, TN.	49 CFR 178.19-14	To authorize the manufacture, marking and sell of non-DOT specification polyethylene drums with 4" opening for transportation of corrosive, flammable, poison and oxidizer materials for which DOT Specification 34 and 21C containers are authorized. (Mode 1.)
10486-N	Aeropres Corporation, Shreveport, LA.	49 CFR 172.101, 173.302, 173.304, 173.305.	To offer and transport mixtures of flammable and nonflammable gases in DOT Specification MC-330 and 331 cargo tanks. (Mode 1.)
10487-N	Degussa Corporation, South Plainfield, NJ.	49 CFR 173.154	To authorize shipment of flammable solid in DOT Specification 37A drums, equipped with an automatic release device, overpacked in freight containers. (Modes 1, 2, 3.)
10488-N	TEN-E Packaging Services, Inc. Eagan, MN.	49 CFR Part 173, Subpart D & F	To authorize the manufacture, marking and sell of a non-DOT specification open-head 5 gallon capacity polyethylene pail for shipment of certain corrosive and flammable liquids. (Mode 1.)
10490-N	Goex International, Inc., Cleburne, TX.	49 CFR 173.100(v)	To authorize transportation of tubing cutters containing more than 23 grams, but not more than 39 grams of high explosives to be classes as a class C explosive. (Modes 1, 2, 3, 4, 5.)
10492-N	Detroit Water and Sewerage Department, Detroit, MI.	49 CFR 174.67(i)(j)(k)	To authorize chlorine filled tank cars to stand with unloading connections attached during unloading without being attended by an unloader. (Mode 1.)
10495-N	First Corporate Air, Inc., Howell, MI.	49 CFR 172.101, 175.30	To authorize the transportation of class A, B, and C explosives not permitted for shipment by air or in quantity greater than those prescribed for shipment by air on cargo-only aircraft. (Mode 4.)
10500-N	Thermedics Inc., Woburn, MA	49 CFR Parts 100-177	To authorize the transportation of permeation tubes and vials containing small quantities (1½ grams or less) of liquid and gas material by cargo-only and passenger-carrying aircraft. (Modes 4, 5.)
10501-N	Semi-Bulk Systems, Inc., St. Louis, MO.	49 CFR 173(K)(L)(M)(O), 173.154, 173.167, 173.168, 173.182, 173.204, 173.217, 173.245b, 173.366.	To authorize the manufacture, mark and sell of a reusable, palletized, collapsible, bulk container for the transport of solid hazardous materials classed as oxidizers, flammable solids, corrosive materials, poison B materials and other regulated materials. (Modes 1, 2, 3.)
10502-N	Thiokol Corporation, Huntsville, AL	49 CFR 172.101, 173.68(e)(2)(ii), 173.92(a), 173.92(b).	To authorize shipment of a rocket motor, class B explosive, in a propulsive state; and an explosive projectile, class A explosive by cargo aircraft only. (Mode 4.)
10503-N	Photographic Solutions, Inc., Buzzards Bay, MA.	49 CFR Parts 100-109	To authorize the transportation of limited quantities of certain products to be shipped as non-regulated commodities. (Mode 1.)
10504-N	Solkatronic Chemicals, Inc., Morrisville, PA.	49 CFR 173.119, 173.245, 173.302, 173.304, 173.328, 173.346, 49 CFR 173.24.	To authorize use of a non-DOT specification full opening head salvage cylinder of 33 gallon capacity for overpacking damaged or leaking packages of pressurized and non-pressurized hazardous materials. (Mode 1.)



This notice or receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 7, 1990.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 90-26893 Filed 11-14-90; 8:45 am]

BILLING CODE 4910-60-M

### Research and Special Programs Administration

### Hazardous Materials Transportation; Applications for Renewal or Modification of Exemptions or Applications to Become a Party to an Exemption

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of applications for renewal or modification of exemptions or application to become a party to an exemption.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

**DATES:** Comments must be received on or before November 29, 1990.

**ADDRESS COMMENTS TO:** Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in

triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

**FOR FURTHER INFORMATION:** Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
1479-X	U.S. Department of Defense, Falls Church, VA.	1479
2000-X	Linde Gases of New England, Inc., West Hartford, CT.	2000
2000-X	Linde Gases of Southern California, Inc., Santa Ana, CA.	2000
2000-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	2000
2000-X	Linde Gases of Florida, Inc., Tampa, FL.	2000
2582-X	Air Products and Chemicals, Inc., Allentown, PA.	2582
2582-X	Linde Gases of New England, Inc., West Hartford, CT.	2582
2582-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	2582
2582-X	Solkatronic Chemicals, Inc., Fairfield, NJ.	2582
2582-X	Ozark-Mahoning Company, Tulsa, OK.	2582
2582-X	Linde Gases of Florida, Inc., Tampa, FL.	2582
2582-X	Linde Gases of the Midwest, Inc., Hillside, IL.	2582
4338-X	Rhone-Poulenc Basic Chemicals Company, Shelton, CT.	4338
4453-X	Maynes Explosives Company, Lee's Summit, MO.	4453
4453-X	Woodard Explosives, Inc., Albuquerque, NM.	4453
4453-X	Explosives Technologies International, Inc. (ETI), Wilmington, DE.	4453
4453-X	SherDeb Corporation, Lehigh Valley, PA.	4453
4453-X	Laurel Explosives, Inc., East Bernstadt, KY.	4453
4453-X	Kentucky Powder Company, Lexington, KY.	4453
4453-X	Maurer & Scott, Inc., Lehigh Valley, PA.	4453
4453-X	Quick Supply Company, Des Moines, IA.	4453
4453-X	Strawn Explosives, Inc., Hurst, TX.	4453
4453-X	IRECO, Incorporated, Salt Lake City, UT.	4453
4453-X	Cherokee Products, Inc., Jefferson City, TN.	4453
4453-X	Ladshaw Explosives, Inc., New Braunfels, TX.	4453
4453-X	Energy Ventures Corp. dba Columbus Powder Company, Columbus, IN.	4453
4453-X	Austin Powder Company, Cleveland, OH.	4453
5604-X	Airco Industrial Gases—Division of The BOC Group, Murray Hill, NJ.	5604
6443-X	Montana Sulphur & Chemical Company, Billings, MT.	6443
6614-X	Bison Laboratories, Inc., Buffalo, NY.	6614
6637-X	Russell-Stanley Corporation, Red Bank, NJ (See Footnote 1).	6637
6658-X	Ensign-Bickford Company, Simsbury, CT.	6658
6946-X	Badger Welding Supplies, Inc., Madison, WI.	6946
7051-X	Advanced Research Chemicals, Inc., Catoosa, OK.	7051
7052-X	Honeywell, Inc., Albuquerque, NM.	7052
7252-X	Explosives Technologies International, Inc. (ETI), Wilmington, DE.	7252
7274-X	Linde Gases of Southern California, Inc., Santa Ana, CA.	7274
7274-X	Linde Gases of New England, Inc., West Hartford, CT.	7274
7274-X	Linde Gases of the Mid-Atlantic, Inc., Keasbey, NJ.	7274
7274-X	Linde Puerto Rico, Inc., Gurabo, PR.	7274
7274-X	Linde Gases of the Northwest, Inc., Portland, OR.	7274
7274-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	7274
7274-X	Linde Gases of the Midwest, Inc., Hillside, IL.	7274
7277-X	Structural Composites Industries, Inc., Pomona, CA (See Footnote 2).	7277
7451-X	Linde Gases of the Mid-Atlantic, Inc., Keasbey, NJ.	7451
7451-X	Linde Gases of New England, Inc., West Hartford, CT.	7451
7451-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	7451
7451-X	Linde Gases of the Midwest, Inc., Hillside, IL.	7451
7526-X	Sherex Chemical Company, Inc., Dublin, OH.	7526
7526-X	Schering AG, West Berlin, West Germany.	7526
7607-X	The Foxboro Company, East Bridgewater, MA.	7607
7616-X	Burlington Northern Railroad Company, Overland Park, KS.	7616
7616-X	CSX Transportation, Inc., Jacksonville, FL.	7616
7616-X	Wisconsin Central, Ltd., Rosemont, IL.	7616
7616-X	Grand Trunk Western Railroad Company, Pontiac, MI.	7616
7625-X	Hydrite Chemical Company, Milwaukee, WI.	7625
7774-X	Wedge Wireline, Inc., Arlington, TX.	7774
7774-X	Pipe Recovery Systems, Incorporated, Houston, TX.	7774
7835-X	Messer Griesheim Industries, Inc., Valley Forge, PA.	7835
7835-X	Wilson Oxygen and Supply, Inc., Austin, TX.	7835
7835-X	General Air Service & Supply Company, Denver, CO.	7835
7835-X	AGA Gas, Inc., Cleveland, OH.	7835
8009-X	Marlin Gas Transport, Inc., Clearwater, FL.	8009



Application No.	Applicant	Renewal of exemption	Application No.	Applicant	Renewal of exemption	Application No.	Applicant	Renewal of exemption
8084-X	IRECO, Incorporated, Salt Lake City, UT.	8084	8988-X	Wedge Wireline, Inc., Arlington, TX.	8988	9275-X	Avon Products, Inc., New York, NY.	9275
8084-X	Explosives Technologies International, Inc. (ETI), Wilmington, DE.	8084	8988-X	Owen Oil Tools, Inc., Forth Worth, TX.	8988	9275-X	Giorgio of Beverly Hills, Santa Monica, CA.	9275
8084-X	Austin Powder Company, Cleveland, OH.	8084	8990-X	Amtrol, Inc., West Warwick, RI.	8990	9275-X	Carter Wallace, Inc., Princeton, NJ.	9275
8086-X	Boeing Aerospace Company, Seattle, WA.	8086	8995-X	Worum Chemical Company, St. Paul, MN.	8995	9289-X	ICI Americas, Inc., Wilmington, DE.	9289
8099-X	Rhone-Poulenc Ag Company, Research Triangle Park, NC.	8099	8995-X	Olin Corporation, Stamford, CT.	8995	9332-X	Engelhard Corporation, Edison, NJ.	9332
8151-X	Ropak Corporation, La Mirada, CA (See Footnote 3).	8151	8995-X	Flexible Products Company, Marietta, GA.	8995	9346-X	Witco Corporation, Bradford, PA.	9346
8196-X	GCS Container Service, SA, Chiasso, Switzerland.	8196	9024-X	Ermetainer S.A., Geneva, France.	9024	9370-X	Norris Cylinder Company, Longview, TX (See Footnote 5).	9370
8214-X	Mercedes-Benz of North America, Inc., Montvale, NJ.	8214	9024-X	SLEMI, Paris, France.	9024	9374-X	Poly Processing Company, Inc., Monroe, LA.	9374
8214-X	Morton International, Inc., Ogden, UT.	8214	9034-X	Linde Gases of The Southeast, Inc., Wilmington, NC.	9034	9374-X	Poly Cal Plastics, Inc., French Camp, CA.	9374
8214-X	Volkswagen of America, Inc., Troy, MI.	8214	9034-X	Linde Gases of New England, Inc., West Hartford, CT.	9034	9377-X	Austin Powder Company, Cleveland, OH.	9377
8214-X	Isuzu Motors America, Inc., Whittier, CA.	8214	9034-X	Linde Gases of Southern California, Inc., Santa Ana, CA.	9034	9408-X	Ethyl Corporation, Baton Rouge, LA.	9408
8220-X	Applied Companies, San Fernando, CA.	8220	9034-X	Linde Gases of the South, Inc., Houston, TX.	9034	9413-X	EM Science, Cincinnati, OH.	9413
8232-X	GCS Container Service, SA, Chiasso, Switzerland.	8232	9034-X	Linde Gases of the Northwest, Inc., Portland, OR.	9034	9433-X	Aldrich Chemical Company, Inc., Milwaukee, WI.	9433
8451-X	Aerojet Propulsion Division, Sacramento, CA.	8451	9034-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	9034	9443-X	Hercules, Inc., Wilmington, DE.	9443
8453-X	Atlas Powder Company, Dallas, TX.	8453	9034-X	Linde Gases of Florida, Inc., Tampa, FL.	9034	9579-X	Pepin-Ireco, Inc., Ishpeming, MI.	9579
8518-X	Gallighen, Inc., Ventura, CA.	8518	9034-X	Linde Gases of the Midwest, Inc., Hillside, IL.	9034	9637-X	Connelly Containers, Inc., Bala-Cynwyd, PA (See Footnote 6).	9637
8518-X	Speed's Oil Tool Service, Inc., Santa Maria, CA.	8518	9108-X	Explosive Technologies International, Inc. (ETI), Wilmington, DE.	9108	9658-X	Fluoroware, Inc., Chaska, MN.	9658
8518-X	Pacific Petroleum Corporation, Orcutt, CA.	8518	9108-X	Atlas Powder Company, Dallas, TX.	9108	9686-X	Fluoroware, Inc., Chaska, MN.	9686
8519-X	Polish Ocean Lines, Gdynia, Poland.	8519	9108-X	Ensign-Bickford Company, Simsbury, CT.	9108	9705-X	E. I. du Pont de Nemours and Company, Inc., Wilmington, DE.	9705
8539-X	Aero Taxi-Rockford, Inc., Rockford, IL.	8539	9169-X	Hugo Neu & Sons, Inc., New York, NY.	9169	9706-X	Taylor-Wharton Cylinders, Harrisburg, PA.	9706
8569-X	General Dynamics Corporation, Fort Worth, TX.	8569	9174-X	National Aeronautics & Space Administration (NASA), Washington, DC.	9174	9710-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	9710
8571-X	EM Science, Cincinnati, OH.	8571	9275-X	Marion Merrell Dow, Inc., Cincinnati, OH.	9275	9718-X	Eurotainer US, Inc., Somerset, NJ.	9718
8620-X	Polar Tank Trailer, Inc., Holdingford, MN.	8620	9275-X	Hercules, Inc., Wilmington, DE.	9275	9784-X	Worthington Cylinder Corporation, Columbus, OH.	9784
8678-X	Eurotainer US, Inc., Somerset, NJ.	8678	9275-X	BIC Corporation, Milford, CT.	9275	9797-X	LTV Missiles and Electronics Group, Dallas, TX (See Footnote 7).	9797
8692-X	Mitsubishi International Corporation, New York, NY.	8692	9275-X	Amway Corporation, Ada, MI.	9275	9972-X	Lubrizol Corporation, Wickliffe, OH.	9972
8748-X	Battelle, Pacific Northwest Laboratories, Richland, WA.	8748	9275-X	A.H. Robins Company, Richmond, VA.	9275	10001-X	Linde Puerto Rico, Inc., Gurabo, PR.	10001
8921-X	Hoover Group, Inc., Beatrice, NE (See Footnote 4).	8921	9275-X	Warner-Lambert Company, Morris Plains, NJ.	9275	10001-X	Linde Gases of the Southeast, Inc., Wilmington, NC.	10001
8936-X	Great Lakes Chemical Corporation, El Dorado, AR.	8936	9275-X	Upjohn Company, Kalamazoo, MI.	9275	10001-X	Air Products and Chemicals, Inc., Allentown, PA.	10001
8955-X	Western Atlas International, Inc., Houston, TX.	8955	9275-X	Shaklee Corporation, Hayward, CA.	9275	10001-X	Linde Gases of the South, Inc., Houston, TX.	10001
8966-X	Jones Chemicals, Inc., LeRoy, NY.	8966	9275-X	Scentura Creations, Atlanta, GA.	9275	10001-X	Linde Gases of the Mid-Atlantic Inc., Keasbey, NJ.	10001
8968-X	Degussa Corporation, Ridgewood Park, NJ.	8968	9275-X	Proctor & Gamble Distribution Company, Cincinnati, OH.	9275	10001-X	Linde Gases of Southern California, Inc., Santa Ana, CA.	10001
8971-X	Western Atlas International, Inc., Houston, TX.	8971	9275-X	Mary Kay Cosmetics, Dallas, TX.	9275	10001-X	Linde Gases of the Northwest, Portland, OR.	10001
8977-X	Eurotainer US, Inc., Somerset, NJ.	8977	9275-X	Liz Claiborne Cosmetics, North Bergen, NJ.	9275	10001-X	Linde Gases of the West, Inc., San Ramon, CA.	10001
8988-X	GOEX International, Inc., Cleburne, TX.	8988	9275-X	Fritzsche, Dodge & Olcott, Inc., New York, NY.	9275	10001-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	10001
8988-X	Schlumberger Well Services, Houston, TX.	8988	9275-X	Noxell Corporation, Hunt Valley, MD.	9275	10001-X	Linde Gases of Florida, Inc., Tampa, FL.	10001
8988-X	Halliburton Logging Services, Inc., Houston, TX.	8988	9275-X	International Flavors & Fragrances (IFF-US), Hazlet, NJ.	9275	10001-X	Linde Gases of the Midwest, Inc., Hillside, IL.	10001
8988-X	Western Atlas International, Inc., Houston, TX.	8988						



Application No.	Applicant	Renewal of exemption
10022-X.....	Linde Gases of New England, Inc., West Hartford, CT.	10022
10022-X.....	Linde Puerto Rico, Inc., Gurabo, PR.	10022
10022-X.....	Linde Gases of the Southeast, Inc., Wilmington, NC.	10022
10022-X.....	Linde Gases of the South, Inc., Houston, TX.	10022
10022-X.....	Linde Gases of the Mid-Atlantic, Inc., Keasbey, NJ.	10022
10022-X.....	Linde Gases of Southern California, Inc., Santa Ana, CA.	10022
10022-X.....	Linde Gases of the Northwest, Inc., Portland, OR.	10022
10022-X.....	Union Carbide Industrial Gases, Inc., Danbury, CT.	10022
10022-X.....	Linde Gases of Florida, Inc., Tampa, FL.	10022
10028-X.....	E.I. du Pont de Nemours and Company, Inc., Wilmington, DE.	10028
10097-X.....	Hercules Aerospace Company, Magna, UT.	10097
10172-X.....	Hoover Group, Inc., Beatrice, NE (See Footnote 8).	10172
10172-X.....	Hoover Group, Inc., Beatrice, NE (See Footnote 9).	10172
10260-X.....	Olin Hunt Specialty Products, Inc., West Paterson, NJ (See Footnote 10).	10260
10261-X.....	Olin Hunt Specialty Products, Inc., West Paterson, NJ (See Footnote 11).	10261
10320-X.....	Worthington Cylinder Corporation, Columbus, OH (See Footnote 12).	10320
10353-X.....	Walpole, Inc., Mt. Holly, NJ (See Footnote 13).	10353
10453-X.....	E.I. du Pont de Nemours and Company, Inc., Wilmington, DE (See Footnote 14).	10453

(1) To modify exemption to provide for shipment of 15% sodium persulfate solution, classified as oxidizer, in DOT specification 34 polyethylene drums.

(2) To extend the service life to 18 years for model ALT 59 cylinders currently authorized as components of self container breathing apparatus.

(3) To renew and modify exemption to provide for new removable head covers equipped with special fittings installed on five-gallon plastic pails for shipment of corrosive and flammable liquids.

(4) To modify exemption to provide for shipment of certain oxidizers and blasting agents as additional commodities authorized for transportation in bulk containers.

(5) To renew and modify the chemical composition of steel used for construction of non-DOT spec cylinders used for the transportation of flammable and nonflammable, liquefied and nonliquefied gases.

(6) To authorize rail as an additional mode of transportation.

(7) To authorize shipment of a non-DOT spec. container consisting of space erectable radiator system panels together with a radiator-evaporator assembly containing certain flammable, nonflammable gas.

(8) To authorize a minimum wall thickness for polyethylene tanks of 0.140 inches instead of the present requirements of 0.198 for the shipment of corrosive liquids, flammable liquids or oxidizers.

(9) To modify exemption to provide for a smaller polyethylene portable tank and to authorize additional type resins for material of construction.

(10) To modify exemption to provide for additional commodities classified as either flammable or corrosive for shipment in non-DOT polyethylene containers.

(11) To modify exemption to provide for additional commodities classified as either flammable or corrosive for shipment in non-DOT polyethylene containers.

(12) To modify exemption to authorize the manufacture, marking and sell of smaller cylinders for acetylene.

(13) To modify exemption to eliminate separate polyethylene film liner for bulk bag shipment of material classed as blasting agents.

(14) To reissue exemption originally issued on an emergency basis to authorize a change in the definition of dispersant and refrigerated gases.

Application No.	Applicant	Parties to exemption
6418-P.....	Coastal Chemical Corporation, Greenville, NC.	6418
6530-P.....	Iweco, Inc., Houston, TX.....	6530
6691-P.....	Iweco, Inc., Houston, TX.....	6691
6805-P.....	Texas Gas Transport Company, Austin, TX.	6805
7052-P.....	Bell Aerospace Systems Group, Boulder, CO.	7052
7052-P.....	Promark Electronics, Inc., Columbus, OH.	7052
7052-P.....	SuperFlow Corporation, Colorado Springs, CO.	7052
7840-P.....	Northrop Corporation, Pico Rivera, CA.	7840
8009-P.....	Texas Gas Transport Company, Austin, TX.	8009
8013-P.....	Iweco, Inc., Houston, TX.....	8013
8063-P.....	Iweco, Inc., Houston, TX.....	8063
8162-P.....	Northrop Corporation, Pico Rivera, CA.	8162
8248-P.....	Cabot Corporation, Revere, PA.	8248
8307-P.....	Conax Florida Corporation, St. Petersburg, FL.	8307
8451-P.....	Day & Zimmermann, Inc., Texarkana, TX.	8451
8495-P.....	Northrop Corporation, Pico Rivera, CA.	8495
8526-P.....	Transbas, Inc., Billings, MT...	8526
8569-P.....	Northrop Corporation, Pico Rivera, CA.	8569
8735-P.....	Northrop Corporation, Pico Rivera, CA.	8735
8915-P.....	Iweco, Inc., Houston, TX.....	8915
8958-P.....	Northland Sports, Inc., Minot, ND.	8958
8958-P.....	Dakco Distributors, Inc., Minot, ND.	8958
8988-P.....	Younger Transportation, Houston, TX.	8988
9357-P.....	Tiphock Tank Rental, Limited, Kent, England.	9357
9401-P.....	Ermetainer S.A., Geneva, France.	9401
9750-P.....	Puritan Bennett Corporation, Lenexa, KS.	9750
10001-P.....	Iweco, Inc., Houston, TX.....	10001
10094-P.....	LaRoche Industries, Inc., Atlanta, GA.	10094
10129-P.....	Day & Zimmermann, Inc., Parsons, KS.	10129
10295-P.....	Schering Berlin Polymers, Inc., Dublin, OH.	10295
10441-P.....	Findly Chemical Disposal, Inc., Fontana, CA.	10441

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 8, 1990.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 90-26894 Filed 11-14-90; 8:45 am]

BILLING CODE 4910-60-M

## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirements Submitted to OMB for Review.

November 8, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer, listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

### Internal Revenue Service

OMB Number: New.

Form Number: 8826.

Type of Review: New collection.

Title: Disabled Access Credit.

Description: New Code section 44

allows eligible small businesses to claim a nonrefundable income tax credit of 50% of the amount of eligible public accommodations access credit expenditures for any tax year that exceed \$250 but do not exceed \$10,250. The Form 8826 computes the credit and the tax limitations.

Respondents: Individuals or households, farms, businesses or other for-profit, small businesses or organizations.

Estimated Number of Respondents: 50,000.

Estimated Burden Hours Per Response/Recordkeeping:

Recordkeeping—4 hours, 18 minutes. Learning about the law or the form—47 minutes.

Preparing and sending the form to IRS—54 minutes.

Frequency of Response: Annually.

Estimated Total Recordkeeping/

Reporting Burden: 300,000 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.



OMB Reviewer: Milo Sunderhauf (202)  
395-6880, Office of Management and  
Budget, room 3001, New Executive  
Office Building, Washington, DC  
20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-26916 Filed 11-14-90; 8:45 am]

BILLING CODE 4830-01-M



# Sunshine Act Meetings

Federal Register

Vol. 55, No. 221

Thursday, November 15, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

**TIME AND DATE:** 10:00 a.m., Wednesday, November 21, 1990.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-27119 Filed 11-13-90; 4:05 pm]

BILLING CODE 6210-01-M

## NEIGHBORHOOD REINVESTMENT CORPORATION

Personnel Committee Meeting

**TIME AND DATE:** 8:00 a.m., Tuesday, November 20, 1990.

**PLACE:** U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Suite 7100, Washington, DC 20012.

**STATUS:** Closed.

### CONTACT PERSON FOR MORE INFORMATION:

Martha A. Diaz-Ortiz, Acting Secretary, (202) 376-2400.

### Agenda

I. Officers' Compensation; and  
II. Report from Korn/Ferry on Search for Executive Director

Martha A. Diaz-Ortiz,

Acting Secretary.

[FR Doc. 90-26989 Filed 11-13-90; 8:59 am]

BILLING CODE 7570-09-M

## LEGAL SERVICES CORPORATION

Board of Directors Meeting; Changes

### "FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: FR Doc. 90-26878, 55 FR 47427.

### PREVIOUSLY ANNOUNCED TIME AND DATE

OF MEETING: Meeting commencing at 12:00 noon on November 19, 1990.

**CHANGES IN THE MEETING:** The meeting has been cancelled.

### CONTACT PERSON FOR MORE INFORMATION:

Maureen R. Bozell, Executive Office, (202) 863-1839.

Date Issued: November 13, 1990.

Maureen R. Bozell,

Corporation Secretary.

[FR Doc. 90-27133 Filed 11-13-90; 4:05 pm]

BILLING CODE 7050-01-M

## FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

**TIME AND DATE:** 11:00 a.m., Monday, November 19, 1990.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 9, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-26983 Filed 11-13-90; 8:59 a.m.]

BILLING CODE 6210-01-M

## NATIONAL TRANSPORTATION SAFETY BOARD

**TIME AND DATE:** 9:30 a.m., Tuesday, November 20, 1990.

**PLACE:** Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

**STATUS:** Open.

### MATTERS TO BE CONSIDERED:

5137B

Highway Accident Report: Collapse of the Harrison Road Bridge Spans, Miamitown, Ohio, May 26, 1989.

**NEWS MEDIA CONTACT:** Alan Pollock 382-6600.

### FOR MORE INFORMATION CONTACT:

Bea Hardesty, (202) 382-6525.

Dated: November 9, 1990.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 90-26990 Filed 11-13-90; 8:59 am]

BILLING CODE 7533-01-M



# Corrections

Federal Register

Vol. 55, No. 221

Thursday, November 15, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 646

[Docket No. 900795-0268]

RIN 0648-AC96

#### Snapper-Grouper Fishery of the South Atlantic

##### Correction

In rule document 90-25994 beginning on page 46213 in the issue of Friday, November 2, 1990, make the following correction:

On page 46214, in the first column, in the second amendatory instruction on

the first line, "paragraph (1)" should read "paragraph (l)".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Office of Hearings and Appeals

#### 43 CFR Part 4

RIN 1094-AA40

#### White Earth Reservation Land Settlement Act of 1985

##### Correction

In proposed rule document 90-25845 beginning on page 46530 in the issue of Monday, November 5, 1990, make the following corrections:

1. On page 46531, in the first column:

- a. In the paragraph labeled "Section 4.350(a)", in the 20th line "of" should read "on"; and
- b. In the ninth line from the bottom of the page "indicated" should read "dictated".

2. On the same page, in the third column:

- a. In the fifth line "other" was misspelled; and

b. In the 27th line from the bottom, "an" should read "and".

3. On page 46532:

- a. In the first column, in the 23rd line, "determination" was misspelled;
- b. In the same column, in the fourth line from the bottom, "had" should read "has", and in the third line from the bottom "process" was misspelled;
- c. In the second column, in the paragraph labeled "Section 4.352(d)", in the sixth line, "4.353(b)" should read "4.352(b)"; and
- d. In the third column, in the 12th line, "and, second" should read "and, second,".

4. On page 46533, in the first column, in the last paragraph, in the third line, "requiring" was misspelled.

#### § 4.350 [Corrected]

5. On page 46534, in the first column, in § 4.350(c)(2), in the first line "Broad" should read "Board" and in the second line "Appeals" was misspelled.

#### § 4.352 [Corrected]

6. On the same page, in the third column, in § 4.352(c), in the seventh line "request" should read "requests".

BILLING CODE 1505-01-D







# Executive Order

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Thursday  
November 15, 1990

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## Part II

### The President

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Proclamation 6228—To Suspend  
Indefinitely the Import Quota on Cotton  
Comber Waste

Executive Order 12733—Authorizing the  
Extension of the Period of Active Duty  
of Personnel of the Selected Reserve of  
the Armed Forces



Thursday  
November 15, 1950

Part II

## The President

Proclamation 8237--To Suspend  
Indefinitely the Import Quota on Cotton  
Combat Waste  
Executive Order 12733--Authorizing the  
Extension of the Period of Active Duty  
of Personnel of the Selected Reserve of  
the Armed Forces



# Presidential Documents

Title 3—

Proclamation 6228 of November 13, 1990

The President

**To Suspend Indefinitely the Import Quota on Cotton Comber Waste**

By the President of the United States of America

**A Proclamation**

1. Presidential Proclamation No. 2351 of September 20, 1939, issued pursuant to section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624) (the Act), limited the total quantity of cotton waste that may be entered in any 12-month period beginning September 20 in any year and provided country-specific allocations of such quantity. This action was taken in order that the entry of cotton waste would not render or tend to render ineffective, or materially interfere with, the programs with respect to cotton undertaken by the Department of Agriculture.

2. In accordance with section 22 of the Act, the Secretary of Agriculture has advised me that he has reason to believe that the quantitative restrictions on imports of cotton comber waste, wherever classified in the Harmonized Tariff Schedule of the United States (HTS), should be terminated or modified because the circumstances requiring the imposition of the restrictions have changed and the quota is being underutilized.

3. Based upon this advice, I directed the United States International Trade Commission (the Commission) to initiate an investigation under section 22(d) of the Act (7 U.S.C. 624(d)) to determine whether the quota on cotton comber waste should be terminated or modified, including globalizing country quota allocations, eliminating the staple length restrictions on cotton used to make cotton comber waste, or distinguishing between bleached and unbleached cotton comber waste, or whether the quota should otherwise be adjusted to take account of circumstances that have changed since the quota was proclaimed.

4. After reviewing the facts and taking into account the report of the Commission based upon the investigation that it conducted, I have determined that the circumstances requiring the current import quotas on cotton comber waste do not exist at this time. Accordingly, I find that the quantitative restrictions imposed under section 22 of the Act on all imported cotton comber waste should be suspended indefinitely, and that the staple length restrictions on cotton comber waste should be eliminated.

5. Section 604 of the Trade Act of 1974 (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the provisions of that Act, of other acts affecting import treatment, and actions taken thereunder.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 22 of the Act and section 604 of the Trade Act of 1974 (19 U.S.C. 2483), do hereby proclaim that:

(1) In subheading 9904.30.50 of the HTS, the title of quota quantity column (A), "Minimum Quota for certain comber wastes", is modified to read "Quota for cotton comber waste".

(2) In subheading 9904.30.50 of the HTS, the title of quota quantity column (B), "Unreserved Quota", is modified to read "Quota for other cotton wastes".



(3) In subheading 9904.30.50 of the HTS, the quota quantity column (C), with its title "Total Quota", is stricken.

(4) U.S. Note 3(b) to subchapter IV of chapter 99 of the HTS is deleted, and the words "See U.S. note 3(b) of this subchapter" in subheading 9904.30.50 of the HTS are deleted.

(5) The quantitative restrictions on imports of cotton comber waste, as provided under subheading 9904.30.50 of the HTS, as revised, are hereby suspended indefinitely.

(6) Proclamation No. 2351 is superseded to the extent inconsistent with this proclamation.

(7) This proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on and after the date of publication of this proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of November, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fiftieth.

*George H. W. Bush*

[FR Doc. 90-27193

Filed 11-14-90; 11:45 am]

Billing code 3195-01-M



## Presidential Documents

Executive Order 12733 of November 13, 1990

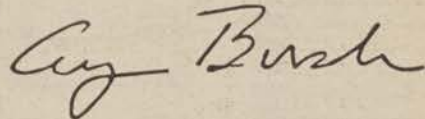
### Authorizing the Extension of the Period of Active Duty of Personnel of the Selected Reserve of the Armed Forces

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 673b(i) of title 10 of the United States Code, I hereby determine that, in the interests of national security, extending the period of active duty is necessary for the following: units of the Selected Reserve, and members of the Selected Reserve not assigned to a unit organized to serve as a unit of the Selected Reserve, now serving on or hereafter ordered to active duty pursuant to section 673b(a) of title 10 of the United States Code and Executive Order No. 12727 of August 22, 1990. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when the latter is not operating as a service in the Department of the Navy, to extend the period of active duty of such units and members of the Selected Reserve.

This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

This order shall be published in the **Federal Register** and transmitted promptly to the Congress.

THE WHITE HOUSE,  
November 13, 1990.



[FR Doc. 90-27183

Filed 11-14-90; 10:56 am]

Billing code 3195-01-M



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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

**H.R. 3562/Pub. L. 101-535**

Nutrition Labeling and Education Act of 1990. (Nov. 8, 1990; 104 Stat. 2353; 15 pages) Price: \$1.00

**H.R. 4090/Pub. L. 101-536**

Pecos National Historical Park Expansion Act of 1990. (Nov. 8, 1990; 104 Stat. 2368; 2 pages) Price: \$1.00

**H.R. 4299/Pub. L. 101-537**

Great Lakes Fish and Wildlife Restoration Act of 1990. (Nov. 8, 1990; 104 Stat. 2370; 6 pages) Price: \$1.00

**H.R. 5004/Pub. L. 101-538**

To amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the wild and scenic rivers system. (Nov. 8, 1990; 104 Stat. 2376; 1 page) Price: \$1.00

**H.R. 5433/Pub. L. 101-539**

To direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Conservation Commission of West Virginia, and for other purposes. (Nov. 8, 1990; 104 Stat. 2377; 2 pages) Price: \$1.00

**H.R. 5872/Pub. L. 101-540**

To amend title I of the Employee Retirement Income Security Act of 1974 to

require qualifying employer securities to include interest in publicly traded partnerships. (Nov. 8, 1990; 104 Stat. 2379; 1 page) Price: \$1.00

**H.J. Res. 649/Pub. L. 101-541**

Approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of Czechoslovakia. (Nov. 8, 1990; 104 Stat. 2380; 1 page) Price: \$1.00

**S. 580/Pub. L. 101-542**

Student Right-To-Know and Campus Security Act. (Nov. 8, 1990; 104 Stat. 2381; 8 pages) Price: \$1.00

**S. 1756/Pub. L. 101-543**

Maine Acadian Culture Preservation Act. (Nov. 8, 1990; 104 Stat. 2389; 4 pages) Price: \$1.00

**S.J. Res. 375/Pub. L. 101-544**

To designate October 30, 1990, as "Refugee Day". (Nov. 8, 1990; 104 Stat. 2393; 1 page) Price: \$1.00



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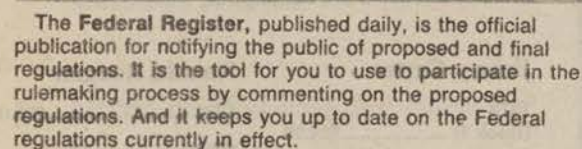
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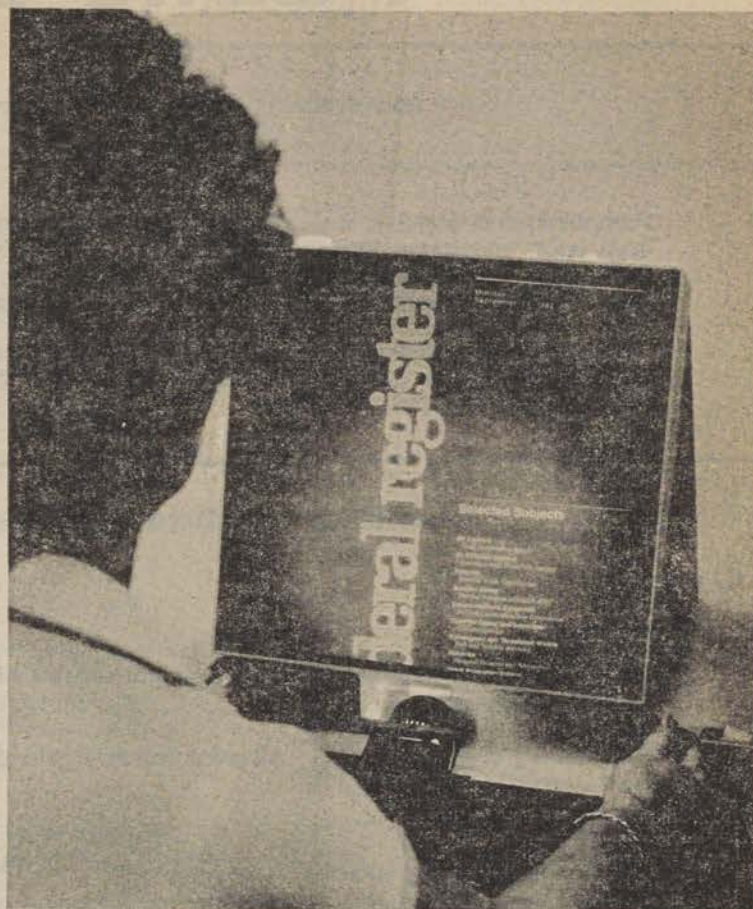
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